PEERS OR PEOPLE?

THE HOUSE OF LORDS WEIGHED IN THE BALANCES AND FOUND WANTING

AN APPEAL TO HISTORY

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PEERS OR PEOPLE?

THE HOUSE OF LORDS WEIGHED IN THE BALANCES AND FOUND WANTING

AN APPEAL TO HISTORY

BY

WILLIAM T. STEAD

"Now a little before it was day, good Christian as one half amazed brake out in this passionate speech: What a fool, quoth he, am I, thus to be in a stinking dungeon, when I may as well walk at liberty! I have a key in my bosom, that will, I am persuaded, open any lock in Doubting Castle. Then said Hopeful, That is good news, good brother, pluck it out of thy bosom and try."—BUNYAN'S "Pilgrim's Progress."

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PREFACE

I HAVE called this book an Appeal to History, and so in truth it is. But it is more than this. It is an announcement of a discovery of the way out of the present deadlock between the two Houses.

Hitherto the people have lain like Christian and Hopeful imprisoned in Doubting Castle, not knowing how they could escape. It had come to be accepted that nothing short of what Lord Hobhouse called "the necessary little rebellion," or the swamping of the Upper House by new made Peers could deliver us from our sad and doleful condition. But there is another way out; to indicate this is one of the main purposes of this book.

The Appeal to History contained in the second part is based on a collection of articles entitled "Fifty Years of the House of Lords" which I contributed to the *Pall Mall Gazette*, then under the editorship of Mr. Morley.

Mr. Gladstone, in his last speech in the House of Commons, referred to this book as follows:—

"As long ago as 1882 a small work was published, small, but of an importance far out of proportion to its size, called 'Fifty

Years of the House of Lords.' Published under the auspices, I believe, of a member of this House of great authority in a matter of this sort, it left upon the mind, I think, of every gentleman associated with the Liberal party the painful but firm conviction that the case of the House of Lords for those fifty years in the exercise of its legislative functions was a case upon the whole, grievously unsatisfactory."

The small work in question was reprinted with notes in 1894, but it has long been out of print.

I have rewritten this book and the substance of its contents, revised and corrected by the aid of friendly and still more of unfriendly critics, are included in the present volume, together with such fresh matter as is necessary to enable the reader to appreciate the gravity of the issue which has arisen between the two Houses.

THE AUTHOR.

January 1, 1907.

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PART I

THE LORDS VERSUS *THE NATION*

CHAPTER I

THE ISSUE STATED

THE question before the country is simply this: Peers or People: who shall rule? That it should be raised at the beginning of the twentieth century is somewhat of a surprise. That it should be deliberately raised by the House of Lords within twelve months of a General Election on a question upon which the mandate of the electorate was clear and unmistakable, is still more surprising. The fact, however, is there. The challenge is none of our seeking. The people of these three kingdoms were in no mood to raise the great constitutional question that they evaded in 1895. But the action of the Peers leaves them no option but to pick up the gauntlet which the Lords have flung at their feet.

The action of the Peers in thus boldly challenging the democracy by rejecting, or mutilating out of recognition, measures for which the nation gave the majority in the Commons an emphatic mandate at the General Election, is not inexplicable. If 'tis madness, still there is method in it. Until the year 1894–5 the House of Lords had never ventured to reject without ceremony any measure which, on an appeal having been made to the country, had received the approval of the majority of the electorate. For sixty years it had come to be regarded as part of the unwritten law of the Constitution that the House of Lords would bow to the will of the nation upon any measure after that will had been

ascertained by an appeal to the country. In 1893 the House of Commons, fresh from a General Election which turned upon the question of Home Rule, sent up a Home Rule Bill to the House of Lords, which promptly threw it out by a majority of 419 to 41. Mr. Gladstone declared that their action had raised the issue "whether the work of the House of Lords is not merely to modify but to annihilate the whole work of the House of Commons." The House of Commons, he went on to say, could not be a final judge in its own case. "The authority of the nation," to which the executive must appeal, "must in the last resort decide," and its decision was "absolutely final." The executive chose its own time of appealing. The issue was stated clearly by Sir W. Harcourt, then leader of the House of Commons. After denouncing the House of Lords as "a chamber which represents nothing but the interests of a class—a very limited and very selfish class," Sir William proceeded:—

"Let the handwriting on the wall be clear so that those who run may read; let it burn into the minds and consciences of the people that it is not upon one question, or upon two questions, that the House of Lords is the champion of all abuses and the enemy of all reform. Let the object-lessons be many; let the moral be flagrant; let us send them up Bill after Bill. Let them maul, and mangle, and mutilate, and defeat them, and then, when the cup is full and the time is ripe, the verdict of the people shall be taken on the general issue, and they shall determine once for all whether the whisper of faction is to prevail over the will of the people."[1]

Lord Rosebery, then Prime Minister, was not less emphatic. Speaking at Bradford six months later, he asked: "When the dissolution comes, what will the General Election be fought upon?" After mentioning Disestablishment, Home Rule, and the Liquor Traffic, he said:—

"In my opinion the next election will be fought on none of these questions, but on one which includes and represents them all—I mean the question of the House of Lords."

[1] Portsmouth, February 14, 1894.

He then explained exactly what the defeat of the Liberals would mean. He said :—

"The time has come or has nearly come for a free popular reference to ask the people of Great Britain and Ireland to settle this question of the Constitution of this country once for all. And then will come your part. If you have come to the conviction that the House of Lords understands your wishes better than do your own representatives, you will give effect by your verdict to that impression. You will annihilate your own representatives and abide contentedly by the unbiassed, patriarchal, mellow wisdom of the House of Lords." [1]

With these words ringing in their ears the electors went to the poll and rendered a verdict so emphatic and so unmistakable that only 177 Liberals and 82 Nationalists were returned, as against 411 Unionists and supporters of the House of Lords.

The verdict of 1895 was repeated in almost exactly the same numerical terms in 1902.

Is it therefore to be wondered at that the House of Lords should have construed the result of the General Election as having the significance which Lord Rosebery attached to it before the polls opened? By returning a Unionist majority, said the then Liberal Premier—

"You will thank them (the Peers) for having done you the favour of having been born. It will be unnecessary any further to go through the musty and superfluous process of popular election, for you will have beside you a self-constituted body that will save you any trouble of the kind." [2]

Under these circumstances it is hardly to be wondered at if the House of Lords fell under the delusion of imagining that it might in the future take the airs and exercise the authority of a Chamber coequal with that of the House of Commons.

The mistake was natural, but it was a mistake nevertheless. Despite the utmost efforts of Lord Rosebery and Mr. Gladstone, the election of 1895 did not turn upon the question of the House of Lords. The irrita-

[1] Bradford, October 27, 1894. [2] Ibid.

tion of the brewers and the publicans at the capitulation of Sir William Harcourt to the Permissive Bill men had much more to do with the election of the Unionist majority than the popularity of the Second Chamber. But even if the electorate had given a straight vote on the action of the Lords in rejecting the Home Rule Bill, that would have fallen far short of a justification for the present action of the Peers in ignoring the result of the last General Election. As I wrote when the agitation of 1893–5 began:—

"The English people are not exactly in a mood to rise in their might and go on the warpath to take the scalps of the House of Lords, merely because that body, acting in accord with the majority of the English electors and the majority of the English members of the House of Commons, asks that the latest revised version of the Home Rule Bill should be submitted to the constituencies before the Bill is finally forced upon the Constitution by a majority varying from fifteen to fifty Irish votes." [1]

The English electorate has always been too ready to condone any misdeeds of the House of Lords of which the Irish are the sole victims. The fundamental difference between the action which was approved in 1895 and the action against which the present protest is raised is that in the former case the House of Lords acted in accordance with the wishes of the majority of English electors, whereas in the latter case it has acted in direct opposition to the declared wishes of the majority of English electors.

The mistake of the Peers, however easily it may be explained, is none the less dangerous to the democracy. Misled by the electoral endorsement in 1895 of their rejection of the Home Rule Bill in 1894, they imagine that they are free to reject or transmogrify any and every measure that is sent up to them by the House of Commons. It is necessary at all costs to knock this delusion on the head without delay, otherwise what Lord Rosebery said will be quite true. The process of popular election becomes "musty and superfluous," and

[1] *Review of Reviews*, vol. 8, p. 190.

the British democracy passes under the yoke of the Peers.

The claim that is put forward with more or less impudence by the apologists for the House of Lords is that the Peers have a right to demand a dissolution in order that the electorate may have an opportunity of saying whether it has changed its mind since the General Election! It is not denied that the issue of no tests for teachers, and the public control of all public schools was clearly, explicitly, and persistently forced upon the electors last January. Neither is it denied that the Liberals received a mandate from the electorate to legislate in that sense. That mandate was expressed in the unmistakably solid shape of a majority of 354. If the Nationalist vote be subtracted from the Ministerial vote and added to that of the Opposition, it still showed a majority of 192. There were only 158 Unionists of all shades returned to a House of 670 members. Never was there a verdict more decisive. To secure the election of that House, no less than a sum of one million sterling was spent in polling 3,394,346 votes for the Liberals and 2,557,928 for the Unionists. Twelve months have not passed since this phenomenal declaration of the opinion of the electors was recorded at the polls. Nothing has happened since then to afford any pretext for believing that there has been any revulsion of feeling in the constituencies.

Bye-elections come and go, but although the two wings of the Liberal-Labour army may indulge in friendly combat, there is no substantial addition to the ranks of the Unionist minority. To demand an immediate dissolution under such circumstances is the superfluity of naughtiness, and the proposal is made solely for the purpose of bringing representative Government into contempt. It would be simply impossible to carry on if the House of Lords is allowed to refuse to pass any measure it dislikes until it has been submitted twice over to the verdict of the electorate. The Chartists demanded Annual Parliaments. Mr. Balfour regards the Septennial Act as one of the fundamentals of the

British Constitution. But the demand for a dissolution within twelve months of a General Election to afford the Peers an opportunity of testing the political temperature of the constituencies is virtually to allow the House of Lords to repeal the Septennial Act when the Liberals are in office and to usurp the prerogative of the Crown in fixing the date of a dissolution.

If the country stands this usurpation on the part of the Peers it seals in advance the fate of all legislation introduced by a Liberal Administration. Even if the Peers approve of the Bills sent up from the House of Commons, it is to their party interest to reject them in order that their party may afterwards have the credit of passing them. But even if they did not carry partisanship quite so far, Liberal legislation is unpopular enough with the majority of the Peers for them always to have conscientious scruples against allowing them to pass into law. The fate that has befallen the Education Bill and the Plural Voting Bill this session will befal the Licensing Bill and the Irish Government Bill next year. The responsibility of the Peers is measured by the extent of their opportunity, and that is limited only by the range within which they can mutilate and reject Liberal Bills with impunity. When once they are assured that they can do their deadly work upon all Liberal Bills without protest or commotion they will reject them all. And what is more, it will be their duty to do so. For the acquiescence of the country in the exercise of their veto is equivalent to the conversion of a strictly limited and subordinate prerogative into one of absolute and uncontrolled power. It is as if a Constitutional Monarch was suddenly and silently converted into an absolute despot.

The issue, therefore, is whether the ancient time-honoured system by which this country is governed alternately by Liberals and Conservatives, according to the swing of the electoral pendulum in the electoral clock, is to continue, or whether this country is to be governed permanently henceforth by the Conservatives, acting through the packed committee of the Tory

caucus, which rejoices in the title of the House of Lords. We are face to face with a demand for the permanent exclusion of the Liberal and Labour parties not from office but from power. Liberals and Conservatives may take turns in the work of administering the affairs of the State. But when it comes to legislation, the Liberals are to be ruled out. The Conservatives alone can legislate, because their enormous preponderance in a Second Chamber, which in never renewed by election, enables them to put an absolute veto upon any legislation which the Liberals may propose.

Nor must it be forgotten that those who control legislation in the long run are the masters of the administration. On this point Sir G. Otto Trevelyan has some pertinent remarks in his "Life and Letters of Lord Macaulay."

"An Upper Chamber which will accept from Ministers whom it detests no measure which has not behind it an irresistible mass of public opinion has, sooner or later, the fate of those Ministers in its hands. For on the one hand, the friction generated by the process of forcing a bill through a reluctant House of Lords annoys and scandalises a nation, which soon grows tired of having a revolution once a twelvemonth, and on the other hand the inability of the Cabinet to conduct through both Houses that continuous flow of legislation which the ever-changing necessities of a country like ours demand, alienates those among its more ardent supporters who take little account of its difficulties, and see only that it is unable to turn its bills into acts." [1]

It is against this new and monstrous reversion to a worse than Royal veto, because vested permanently in the hands of a faction, that the Liberals must now protest with effect or for ever hold their peace.

[1] Vol. 2, ch. viii. pp. 55–6.

CHAPTER II

WHAT A SECOND CHAMBER SHOULD BE

It is often assumed that those who advocate the ending or the abolition of the House of Lords are therefore necessarily opposed in principle to a Second Chamber. It would be nearer the truth to say that it is those who believe most in the importance of Second Chambers who are the most hostile to the House of Lords. That this is necessarily so will appear the moment we inquire for what purpose a Second Chamber is supposed to be needed in a representative Government, and it is still more apparent when we examine the Second Chambers of other lands.

The first duty of a Senate is to act as a revising Chamber to correct the errors and straighten out the tangles in the legislature of the popular Assembly. This duty demands for its exercise, impartiality, expert training, patience, and industry.

Its second duty is to act as a legislature, taking its fair share in the burden of legislating for the nation. The more hopelessly clogged and broken down is the popular House, the more urgent is the need that the Second Chamber should relieve it of some portion of its task.

Its third duty is to act as a strong and trusted bulwark against the aggression either of monarchs or of mobs, to defend liberty and law impartially and firmly against all assailants.

For the discharge of these duties, the first essential is

the confidence of the nation, without which it cannot possess the courage to do its work. The second essential is confidence in itself: it must not feel that it is an anachronism, a mediæval ghost lingering belated in a democratic age till some revolutionary cockcrow sends it to limbo. The third essential is that its members should be held to their work by a constraining sense of public duty. And the fourth is that they should be fairly representative of the nation, as a whole, and above any reproach of being connected with any special industry or interest.

For any Second Chamber to command the confidence of the whole nation it must not be identified with any section of the nation. Alike in class, in politics, and in religion, it ought to bear some proportionate relation to the people on whose behalf it legislates. To be permanently identified with either party in the State is fatal.

In the struggle upon which all nations are entering between the Haves and the Have nots, between the Socialists and the moneyed classes, a Second Chamber should exert a moderating and balancing influence. This is not to say that it should be recruited equally from the Sansculottes and the money-bags, but it ought not to identified with either.

There is no ideal Second Chamber, but there are Second Chambers which approximate somewhat more closely to the ideal than others.

The only attempt to create a Second Chamber in England other than the House of Lords was made by Oliver Cromwell in the later years of the Commonwealth. It is interesting to recall the way he set about it, and to hear the reasons which led him to set up a Second Chamber after the abolition of the House of Lords.

In 1647, before the drastic resolution was passed which abolished the Peers, a Committee, appointed largely at Cromwell's instance, reported in favour of allowing the Peers to sit, subject to the supremacy of the House of Commons. All measures were to be presented to the Peers, but if they refused their assent

they became law all the same, subject to the privilege of the Lords to exempt their own persons and estates from the operation of the law.

This report was not acted upon. Events marched too rapidly, and it was not until ten years later that Cromwell, then Lord Protector, set about the creation of a Second Chamber as a "check or balancing power" between the Chief Magistrate and the House of Commons. He decided upon creating a House of Lords of sixty-three persons selected by himself. He told his Parliament when he dissolved it—

"It was granted that I should name another House. I named it of men that shall meet you wheresoever you go, and shake hands with you and tell you that it is not titles, nor lords, nor party that they value, but a Christian and an English interest—men of rank and quality, who will not only be a balance unto you but to themselves while you love England and religion."

Cromwell nominated to his House of Lords two of his own sons, three sons-in-law, and two brothers-in-law, making exactly one-ninth of the House. He nominated seven English peers, one Irish and one Scottish peer, five sons of peers, and four baronets. Eighteen, or more than one-fourth, represented the hereditary landed families of the country. Five of the peers did not obey the writs. After the landed and titled gentry the officers in command of regiments were most numerous. Of these there were seventeen. The rest of the House was made up of officials and country gentlemen. Of the sixty-three only forty-two took their seats.

Its career was brief. The House of Commons debated at endless length the right of the Second Chamber to be called a House of Lords. They debated it from January 29th till February 4th, and then Cromwell sent them packing. Six months later he died. Since then no attempt has been made to create a Second Chamber in this country. It is worthy of note that it was the Ironsides who were most anxious for a Second Chamber. After Oliver's death the Army petitioned for the foundation of a Select Senate co-

ordinate in power of "able and faithful persons eminent for goodness, and such as do keep adhering to the cause." A little later, in 1659, the officers proposed that there should be two Houses of Parliament, both elected by the people, with Conservators of Liberty appointed to see that essentials were not tampered with.

The construction of Second Chambers has been a favourite pastime of Constitution builders in other lands. It is interesting to note that the ancient practice of having three or four Houses has perished. The revolution so happily carried through in Finland in 1905 swept away one of the last surviving specimens of these multi-cameral constitutions. Very few States have contented themselves with a single Chamber.

The following brief synopsis of the constitution and powers of the Second Chambers in English-speaking lands and in foreign countries may be useful at this juncture.

The best known and the most powerful Second Chamber in existence is the United States Senate. It is hardly a fair example of a Second Chamber, inasmuch as it is a Senate of a federation rather than the Upper Chamber of a single State. The Senate is a much more powerful body than the House of Representatives. It consists of eighty-four members—two from each State of the Union irrespective of size or population. Senators are elected by the legislature of the State for six years, one-third retire every second year. The Senate is not only a legislative body, it is part of the executive. Treaties can only be made with the advice of a two-thirds majority of the Senate. It also has a voice in the payment of ambassadors, consuls, judges of the Supreme Court, and other officers of the United States. It has the sole power to try all impeachments. It cannot originate Money-Bills, but it may amend or reject them as it pleases. When the Senate and the House differ, the matter is referred to a Conference Committee, but if it cannot effect a settlement the Bill drops.

The French Senate consists of 300 members elected

for nine years, one-third retire every three years. No one can be a senator before he is forty years of age. Money-Bills must originate in the Chamber of Deputies, but they can be rejected or amended like any other Bills by the Senate. In cases of impeachment for high treason, the Senate acts as High Court of Justice. When the President is to be elected the Senate and the Chamber of Deputies sit together as a National Assembly.

The election of the senators is indirect, and is made by an electoral body composed (1) of delegates chosen by the Municipal Council of each Commune in proportion to the population; and (2) of the senators, deputies, councillors-general, and district-councillors of the department. Besides the 225 departmental senators elected in this way, there were, according to the law of 1875, 75 senators elected for life by the united two Chambers; but by the Senate Bill of 1884 it was enacted that vacancies arising among the Life-Senatorships should be filled by the election of ordinary nine-years' senators, the department which should have the right to the vacant seat to be determined by lot.

The Italian Senate, which is composed of life-members nominated by the King, consists of 340 members. It has equal rights with the Chamber of Deputies, but Money-Bills must first be introduced into the Lower Chamber. When a conflict arises between the two Houses the Session is closed. Ministers have a right, as in France, to attend and speak in both Houses, but they have no vote unless they are members.

The Upper House in the German Empire is a federal assembly called the Bundesrath, or Federal Council. It consists of 58 members, appointed by 25 States, forming the Empire, each State, according to its size, returning a certain number of members, who do not hold their appointments for any fixed period, but can be replaced at any time by their Governments. All the members of the Bundesrath have a right to be present at the sitting of the Reichstag. All laws for the Empire must receive the votes of an absolute majority of both Houses. The Emperor can only

prorogue and dissolve the Reichstag after a vote by the Bundesrath. The Bundesrath acts also as a supreme administrative and consultative Board under the direction of the Chancellor of the Empire. The Bundesrath has also a voice in questions relating to matters regulated by Imperial legislation, and in a war that is not purely defensive.

In Prussia the Herrenhaus, or House of Lords, consists of (1) the princes of the Royal Family who are of age; (2) the chiefs of the mediatised princely houses, recognised by the Congress of Vienna, to the number of 16 in Prussia; (3) the heads of the territorial nobility formed by the King, numbering some 50 members; (4) a number of life-peers chosen by the King from among the rich landowners, great manufacturers, and "national celebrities"; (5) 8 titled noblemen elected in the eight older provinces of Prussia by the resident landowners of all degrees; (6) the representatives of the universities, the heads of "chapters," and the burgomasters of towns with above fifty thousand inhabitants; and (7) an unlimited number of members nominated by the King for life, or for a more or less restricted period.

It has equal rights of legislation with the Lower House, but, like our own House of Lords, it cannot either originate or amend Money-Bills.

The Herrenhaus of Austria is composed of (1) the princes of the Imperial family who are of age, 16 in number in 1905; (2) of a number of nobles—68 in the present Reichsrath—possessing large landed property, in whose families by nomination of the Emperor the dignity is hereditary; (3) archbishops, 10 in number, and bishops, 8 in number, who are of princely title inherent to their episcopal seat; and (4) of any other life-members nominated by the Emperor, on account of being distinguished in art or science, or who have rendered signal service to Church or State, 140 in 1905. The two Houses have equal powers. Money-Bills and Bills relating to the levying of recruits must be first introduced into the Lower House.

The House of Magnates in Hungary includes the archdukes who have attained their majority (18 years), those Hungarian princes, counts and barons—if of age (24 years) and paying at least 6,000 crowns a year land tax—whose families possess right of hereditary peerage (designated by Act of 1885, or having received it since by a special Act); 42 archbishops, bishops, and other dignitaries of the Roman Catholic and Greek Church; 13 ecclesiastical and lay representatives of the Protestant Confessions; life-peers appointed by the Crown, not exceeding 50 in number; life-peers elected once for all by the Upper House; 18 members ex-officio, being State dignitaries (Barones regui) and high judges; and, lastly, 3 delegates of Croatia-Slavonia. In the Session of 1904–1905 the number of archdukes was 16, and there were 237 hereditary peers holding the property qualification; and 73 life-peers appointed by the Crown or chosen by the House of Magnates. Magnates can sit in the Lower House if they prefer to seek election. The two Houses have equal powers.

The Spanish Senate is composed of senators in their own right and life-senators nominated by the Crown, who together must not exceed 180 in number, and an equal number of senators elected by the corporations of the State and by the largest taxpayers. Half the elected senators are replaced every five years, and all of them are replaced when there is a dissolution. Senators in their own right are sons of the King and Grandees who are worth £2,400 a year, captain-generals of the army, admirals of the navy, the patriarch of the Indias, and presidents of the Councils of State who have served two years. Both Houses possess equal elective power. Congress can impeach ministers before the Senate.

Within the British Empire, most of the Colonies have two Chambers. In the Cape the Legislative Council consists of 26 members elected for seven years by the same electors as those who elected the Assembly, but they vote in provinces, of which there are eight, whereas

the members of the Lower House are elected by smaller constituencies for five years. Every member of the Council must possess immovable property of £2,000 or movable property of £4,000.

In Natal the members of the Legislative Council are appointed for ten years by the Governor, acting on the advice of his ministers, who are responsible to the Legislative Assembly, who are elected for four years.

In Canada the Senators of the Dominion are nominated for life by the Governor-General. Each Senator must be 30 years old and own £800 of property. Members of the House of Commons are elected for five years.

In Canada, the Provinces seem to be getting tired of two Chambers, New Brunswick having abolished hers in 1892, and during that year both Nova Scotia and Prince Edward Island took some steps towards getting rid of theirs. Ontario, under the British North America Act of 1867, never possessed an Upper House, while Manitoba and British Columbia, which entered the Confederation in 1870 and 1871 respectively, are satisfied with a single Chamber.

In Australia the Senators are elected by the same electors as those who choose the House of Representatives, only they vote in each state as one electorate, excepting in Queensland. The Senators sit for six years, half of them retiring every three years. The Representatives sit for three years.

In New South Wales and Queensland members of the Council are appointed by the Crown for life.

In Victoria they are elected for six years, and the members of the Lower House for three.

In South Australia members of the Upper House are elected for six years by four districts, those of the Lower for three by thirteen constituencies.

In Western Australia members of the Council are elected for six years in ten electoral districts, by electors of a higher franchise than those who elect members of the Lower House in fifty constituencies for three years.

In Tasmania the members of the Council are elected for six years.

In all cases a higher qualification is required for electors voting for members of the Upper House.

In New Zealand the Upper House is nominated. Those appointed before 1891 for life, those of later date for seven years.

In the latest Colonial Constitutions, those of the Transvaal and the Free State, the Councillors are appointed by the Crown, in the first instance for five years.

At the end of the fourth year the Colonial Legislature is invited to frame a method for electing the members of future Councils. The whole intention of the clause, Lord Elgin said, was that the nominated Council should only last for the first term. In explaining the Constitution of the Orange Free State Colony, Mr. Winston Churchill said: "It will be nominated by the Governor under instructions from the Secretary of State, and vacancies will be filled up by the Governor in Council—that is to say, the Governor on the advice of his responsible Ministers. But the Government feel that in the ultimate issue, in a conflict between the two Chambers, the lower and representative Chamber must in the end prevail. The other body may review its proceedings, may delay them, but if measures are sent up in successive Sessions from the representative Chamber and no agreement can be reached, we have introduced the machinery which appears in the Constitution of the Australian Commonwealth, that both Chambers shall sit together, debate together, vote together, and the majority shall decide."—Dec. 17, 1906.

This may be taken as the latest expression of the opinion of the Home Government—whether Liberal or Conservative, for the Australian Constitution was passed by the Unionists—as to what should be the relations between the two Chambers.

One general principle governs all the Colonial Constitutions. There are always two Chambers—with Provincial exceptions in Canada—and the Upper House, whether nominated or elective, is not renewed as frequently as the Lower. When elective they sit for larger constituencies.

CHAPTER III

WHAT THE HOUSE OF LORDS IS

THE House of Lords is, as the foregoing chapter has shown, the only Second Chamber in the world at the present moment which is based solely upon the hereditary principle, plus the Lords Spiritual—the Bishops. That circumstance in itself is sufficient to give us pause. How is it that the universal judgment of mankind is against a strictly hereditary Second Chamber? Many Second Chambers have an infusion of the hereditary element. But the House of Lords stands alone as the one solitary survival of a hereditary house.

This is the more remarkable because it was not originally intended to be a hereditary chamber. Mr. Edward A. Freeman has devoted much learning to demonstrate that the hereditary character was not its original essence. The hereditary legislator he regards as a late modern development which has obscured the original character of an assembly to which the King summoned whom he pleased at first, without a thought of conferring upon their descendants a right to be summoned in their turn to the legislature. Mr. Freeman says:—

"If a man was summoned to one Parliament—presumably because the King thought his advice would be worth having—it did not follow that the King was bound to summon him to every Parliament, still less that he was bound to summon his son after him. But such was the strong hereditary tendency of the age that it came to be held, and came to be held wonderfully soon, that, if a King once summoned a man to Parliament, he

and his successors were bound to summon, not only the man himself, but his son, his grandson, and all his direct heirs for ever. This doctrine is the real foundation of our hereditary peerage; it is the main cause of the change which has made the House of Lords so largely hereditary that people fancy that to be hereditary is its essential character and object." [1]

This popular impression is, according to Mr. Freeman, a popular delusion.

"The hereditary element in the House grew up only by degrees. It was only for a very few years, in one of the most troubled times of our history, that the House was wholly hereditary, and that those few years were followed by another few years during which the House did not exist at all. And, since the House took its final shape as a body chiefly hereditary but not wholly so, its actual constitution has been changed in various ways. The admission, first of Scottish, then of Irish, representative peers, at the union, first of England and Scotland, and then of Great Britain and Ireland, brought in some new ideas. . . . Another new principle, that of rotation within a class, existed in the House from 1801 to 1869, as long as the Irish Bishops had seats in the House in turn, four at a time. Another new principle, that of seniority within a class, has been brought in with the present position of the English Bishops. It is now only the two Archbishops and three other Bishops who sit by their immemorial right, whatever we take that right to be. The rest sit, not as holders of certain sees, but as having reached a certain seniority among the holders of sees. I point them out only as showing that other ways besides either the strictly hereditary seat and the strictly official seat are, or lately have been, in actual use." [2]

Be that as it may, we have to do with things as they are to-day, and the outstanding fact is that the House of Lords is now a hereditary legislature. As such it invites, nay, challenges attack. Hereditary legislation belongs to the past. It is an anachronism and an anomaly at the present day. As Mr. Goldwin Smith says, the House of Lords was never created to serve the purpose of a Second Chamber. "It is a relic of a time in which the legislative, executive, and judicial functions lay enfolded in the same germ. The task now proposed to British statesmanship is in effect that of converting

[1] "The House of Lords and other Upper Houses," 1891, p. 12.
[2] Ibid., pp. 16, 17.

an estate of the feudal realm into a chamber of revision or senate."

Being an anachronism, the House of Lords is an assembly which is notoriously without the courage of its own convictions. It is conscious of its anomalous position, and is weak and timorous when a real Senate would be bold and strong. That, indeed, is one of the reasons why it still continues to exist. There are Radicals who resent any attempt to create a real Second Chamber because they regard the House of Lords as the weakest, and therefore the least mischievous, Second Chamber that the wit of man ever invented. Single Chamber Radicals, it has been wittily said, prefer to keep the House of Lords as it is for the same reason that the Russian Government preserves the Sultan at Constantinople. It is not that they love the Lords or the Turks, but they regard both Lords and Turks as less formidable obstacles to the realisation of their ulterior ambitions than any conceivable substitutes. To the revolutionist the House of Lords is almost an ideal simulacrum of a constitutional check, for it is guaranteed to disappear whenever the popular pressure rises to the point of threatened violence. But alike to the constitutional reformer and the opponent of reform, no contrivance can be so detestable as an institution which blocks the way obstinately when timely reform might avert disaster, but which vanishes from the scene the moment popular discontent develops into revolutionary fury.

The essential weakness of a hereditary house in this democratic age has been frequently deplored by staunch Conservatives. Lord Newton and Sir Herbert Maxwell are among the most recent to bear testimony in this sense. The latter, writing in 1906, said, "It would be vain to deny that the continuance of a purely hereditary Chamber in a Constitution such as ours, thoroughly democratic in theory and practice, is a salient anomaly, and as such liable to frequent and formidable attack."[1]

[1] *Nineteenth Century*, July, 1906.

The result of being in such a position was illustrated much to Sir Herbert Maxwell's disgust, in the passage of the Trades Disputes Bill in 1906. Writing in November, immediately before the Bill went before the Lords, Sir Herbert Maxwell said :—

"Rumour is running in regions not always ill-informed that, for tactical reasons, the Lords are going to deal tenderly with the Trade Disputes Bill and the Land Bills, but will show no mercy to the Plural Voting Bill. If that should prove to be so, then indeed may some of us doubt whether the Lords retain so much of their pristine value as a Second Chamber as to make them worth fighting for. Distrust of party tactics, so deeply discredited in the past, will be wrought to the kicking point. If the Lords, from any fear of consequences to their own House, allow the Trade Disputes Bill to be inscribed on the Statute Book in its present form, they will not only be false to their own settled convictions, but they will be defrauding the nation of the right to pronounce its will upon a proposal which was not before it when the present House of Commons was elected. No imputation of personal motives can be sustained against them in the course which it behoves them to take in respect to the Trade Disputes Bill. All the objections, many and grave as they are, which can be brought against the Plural Voting and Land Bills fade into insignificance beside those which exist against Clause 4 of this measure as it has left the House of Commons. If ever there was a wrong to be righted by the Second Chamber, here was the occasion to rally all sound judgment in support of its action."[1]

Within a week of the publication of this emphatic declaration the Bill came before the House of Lords. The speeches of Lord Lansdowne and Lord Halsbury, as leaders of the majority, showed that they entirely shared Sir Herbert Maxwell's view of the iniquitous nature of the Bill. Lord Lansdowne told the Peers that the Bill would bring "ruin to trade, bodily suffering to individuals, and mental anguish, with loss, danger, and inconvenience to the community at large."

Lord Halsbury declared that the Bill was "dangerous, unjust, and contrary to the whole spirit of British liberty." It was "gross, outrageous, tyrannical; it legalised

[1] *Nineteenth Century*, December, 1906.

tyranny." It was "a disgrace to a civilised country," and contained "a section more disgraceful than any that had ever appeared in an English statute."[1]

This was the deliberate verdict of the late Lord Chancellor and the leader of the Conservative Peers. They had an obedient and overwhelming majority at their command eager to destroy this atrocious Bill and to deliver the country from the danger which menaced it. But instead of doing this plain duty the Peers were advised by their party chiefs to allow it to pass, lest by rejecting it they might endanger their own existence. Lord Lansdowne's words were thus reported in the *Times*[2]:—

"He should greatly deprecate an appeal to the people on such a ground as that. They were passing through a period when it was necessary for the House of Lords to move with great caution. Conflicts and controversies might be inevitable. But let their lordships, so far as they were able, be sure that if they were to join issue they did so *upon ground which was as favourable as possible to themselves*. In this case the ground would be unfavourable to the House, and the juncture was one that, even were their lordships to win the victory, would be fruitless."

The Peers accepted his advice and passed what they believed to be a thoroughly bad Bill on the naked ground that the issue was an unfavourable one for the House of Lords. As the *Westminster Gazette* remarked:—

"That really bars the claim of the House to be a revising Chamber which considers important Bills on their own merits, and reduces it to a party convention accepting the tactical decrees of the Opposition Leaders in the other House."

How apt and timely an illustration of the justice of Lord Rosebery's remark:—

"In my judgment the House of Lords is not a Second Chamber at all. . . . It is a permanent party organisation, controlled for party purposes and by party managers."[3]

[1] House of Lords, December 4, 1906.
[2] December 5, 1906.
[3] Bradford, October 27, 1894.

The House of Lords is in a most unfortunate position. If it were free to act upon its convictions as to what is best for the country it would reject unhesitatingly almost every Liberal measure sent up from the House of Commons. If the Peers did this they know they would be swept out of existence. They have, therefore, constantly to consider, not what are the merits or demerits of Liberal Bills, but whether it would be safe for them to give expression to their real sentiments. They yield everything to fear and nothing to reason. If they give way it is solely a registration of the result of a calculation that it would be dangerous to persist in their opposition to the popular demand.

The House of Lords as a Second Chamber is only useful as a political thermometer of the popular temperature. They inquire not whether a proposed measure be just or good for the country. Upon all Liberal measures their minds are made up on that subject before they enter their Painted Chamber. All that they ask is whether there is behind this particular measure such a volume of popular passion as to render it unsafe for them to stand out against it. If there is, then no matter how mischievous the measure, the Peers will incontinently pass it into law. The House of Lords is a body which not only yields everything to threats of violence and nothing to argument, but which absolutely glories in this as its supreme title to public support. It regards it as its chief function to dam up the flood of public discontent until it threatens to sweep the dam away altogether. Then it opens the sluices. Such a policy is a permanent premium upon revolutionary violence. Again to quote Lord Rosebery:—

"The real danger of the House of Lords from a Constitutional point of view is that it invites unrest, it invites agitation, and in certain cases the cup might boil over, and it might invite revolution. This is a great national question and it is a great national danger."[1]

[1] Bradford, October 27, 1894.

The House of Lords as a revising body is very much at a discount. That there is great and urgent need for a Chamber of revision cannot be denied, especially of late years, since measures have been passed undiscussed through the House of Commons by the unsparing use of the guillotine. Unfortunately the House of Lords has not risen to the occasion. Instead of revising the half-baked measures sent up from the Lower House, it has placed them on the Statute Book often without serious discussion. This slovenly habit of shirking its proper work is peculiarly manifest when a Conservative Government is in office. The House of Lords practically retires from business when its political partner has a majority in the House of Commons.

Legislatures exist in order to give statutory expression to the wishes of the legislators. Whether they do their work effectively or not is to be tested by the decisions of the Law Courts when they are called upon to interpret the statutory results of legislative activity. It is a curious fact that for the whole of the last year, and not only of last year, the nation has been occupied in endeavouring to remedy the results of the imperfect drafting of three Acts of Parliament, all of which were framed by Conservative Governments and carried in their present shape by Conservative Parliaments, without a Second Chamber discovering the flaws in the drafting which nullified the intentions of their authors.

The Trades Disputes Bill of 1906 was necessitated by the discovery made by judges in 1901, that the legislation of 1871 and 1875 governing the relations of employers and employed did not protect the funds of trades unions from being impounded to cover the cost of strikes. For thirty years every one believed that the law did so protect them. It was certainly the intention of the legislature in 1875 that they should be so protected. But owing to a flaw in the drafting of the Act, the Supreme Court decided that they were not protected. Hence, the Trades Disputes Bill, which after being four consecutive years discussed

in the House of Commons, was in 1906 passed into law, and with the consent of the House of Lords.

The Education Act of 1902 was framed by the Conservative Government of the day with the express object of enabling the denominational schools to receive support from the rates. But after four years when the Court of Appeal came to examine the phraseology of the Act, they were unable to find any words authorising the local authority to pay money for religious education in denominational schools. There is even reason to believe that this extraordinary nullification of the declared intent of the legislature was actually due to an amendment introduced by the Lords themselves. If they had not revised the clause, as it came up to them from the Commons, it would have given effect to the intent of its authors. As it was they tampered with it and tinkered it, with the result that the Court of Appeal declared that the local authority were under no statutory obligation to pay one penny out of the rates for the religious teaching given in 14,140 denominational schools which were attended by 3,750,000 scholars. The fact that the decision of the Court of Appeal was reversed by the House of Lords only strengthens the evidence as to the obscurity of the wording of the Act.

The third instance of the utter inefficiency of the House of Lords as a Chamber of Revision was afforded by the deadlock in the administration of the Licensing Act of 1904. This measure provides that certain things shall be done by the majority of the licensing justices—meaning, thereby, the majority of the licensing justices present at the Court. But as this was only meant, and not expressed, it was judicially decided that the terms of the Act demanded the decision of a majority of all the licensing justices on the roll, and therefore that all decisions taken by a mere majority of those present were null and void unless they happened to be—as seldom or never happened—a majority of all the justices on the roll. This was a flaw which necessitated fresh legislation. It ought

to have been discovered and remedied by the House of Lords in 1904. The Licensing Bill was thrust through the House of Commons by the use of the closure and the guillotine. When it came before the House of Lords, the temperance organisations, who were watching the Bill, felt certain that legal difficulties would crop up as to the powers and procedure of the new authority. An amendment was proposed in the Lords, which would have safeguarded this point along with others; but Lord Halsbury pooh-poohed it as entirely superfluous, and as mere "words to make clearer that which he thought was perfectly clear already by law."

The result of this lack of wisdom on the part of the Chamber of Revision in 1904 was a deadlock and the necessity for retrospective legislation in 1906.

Sir Edward Carson said in the discussion of the new Licensing Bill that "he had really come to the conclusion that it was almost impossible to put words in an Act of Parliament which might not by some tribunal receive a totally different meaning from what, he thought, every layman and every lawyer attached to them."

That is no doubt true. But it only shows how necessary it is to have legislative enactments closely scrutinised and carefully revised by a Court of experts before they are placed on the Statute Book, instead of being scrambled over as at present by a miscellaneous mob of hereditary legislators who are much more intent upon scoring a victory for their party than on giving scientific exactitude to the phraseology of clauses which most of them neither read nor understand.

If the House of Lords is worthless, and worse than worthless as a bulwark against revolution, if it is inefficient and perfunctory in the discharge of the duties of a Chamber of Revision, what can be said of it as a bulwark of property, as a defender of the menaced interests of capital against the predatory legislation demanded by a Socialistic proletariat?

Regarded from this point of view the House of Lords is entirely out of court. Wide as are its powers and

almost unlimited its prerogatives, there is one domain where it can exercise no authority. For centuries it has been a settled rule of constitutional law that the initiative in matters of finance lies with the House of Commons. The Peers may not vote money, nor may they meddle with the amount or sources of the supplies granted by the House of Commons.

This privilege of the Commons dates back for nearly six hundred years. In 1640 the House of Commons declared :—

"We have had uninterrupted possession of this privilege (the privilege of the undisputed control over the taxation and finances of the country) ever since the year 1407, confirmed by a multitude of precedents both before and after, not shaken by one precedent for these three hundred years."

In 1671 when the House of Lords proposed to reduce the duty on white sugar from one penny to five-eights of a penny on the pound, the Commons passed a resolution that :—

"In all aids given to the King by the Commons, the rate or tax ought not to be altered by the Lords."

At a conference with the Lords they declared that the right they claimed "was a fundamental right, both as to the matter, the measure, and the time." The Lords, they said, could throw out a Money-Bill, but not amend it. The Lords retorted by passing a resolution asserting their right to do as they pleased. They said :—

"If we cannot amend, or abate, or revise a Bill in Parliament, if we cannot amend, or abate, or alter in part, by what consequence of reason can we enjoy the liberty to reject the whole?"

Seven years later the House of Commons passed a famous resolution, which ever since has formed the fundamental law governing all the proceedings between

the two Houses in matters of supply. It was declared in a resolution voted by the House of Commons as far back as 1678:—

"that all aids and supplies and aids to his Majesty in Parliament are the sole gift of the Commons, and all Bills for the granting of any such aids and supplies ought to begin with the Commons; and that it is the undoubted and sole right of the Commons to direct, limit, and appoint in such Bills the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the House of Lords."

In 1861 the Lords ventured to refuse their assent to the repeal of the paper duty. "A *coup d'état*," Mr. Gladstone called it, which led to the adoption of the plan of including all the financial proposals into single Bills.[1] Mr. Morley says:—

"This was the affirmation in practical shape of the resolution of the House of Commons in the previous year, that it possessed in its own hands the power to remit and impose taxes, and that the right to frame Bills of supply in its own measure, time, and matter is a right to be kept inviolable. . . . By including all the taxes in a single finance Bill, the power of the Lords to override the other House was effectually arrested."[2]

The result of this veto upon any interference by the Peers with the financial proposals of the House of Commons deprives the House of Lords of the one weapon which they ought to possess if they were to be regarded as the bulwark of property. They may, of course, reject any financial proposals, but they can only do this at the cost of depriving the Government of the King of the ways and means by which the administration of the Empire is carried on. The power of the democracy to tax the plutocracy to extinction is

[1] See an admirable statement of the case for the Commons printed from "Bright's Speeches," July 6, 1860, pp. 489–502.

[2] "Life of Gladstone," vol. ii. p. 40.

nowhere so unlimited as in England. In the United States the Constitution and the Senate present great obstacles. In the United Kingdom there is no written Constitution, and the House of Lords is barred by constitutional rule and practice from interfering even to save its own estates from confiscation by taxation. It was not so always. In the early days of parliamentary government each estate of the realm levied taxes upon itself. Even as late as the days of the Long Parliament it was proposed to allow the Peers who dissented from a law passed by the Commons to exempt themselves and their estates from the operation of the law. But the supreme authority of the Commons in all matters of taxation has long been established over all classes. To the American it is one of the most incredible paradoxes of our Constitution that the sole power of taxation is vested in a House elected by the masses, while the House representing the wealthy classes is not allowed to have a word to say upon questions of finance. The extent to which the House of Lords is debarred from exercising any authority in the State except in legislation was forcibly described by Sir W. Harcourt at Derby, on January 24, 1894 :—

"There has been a great deal of ignorant nonsense talked and spoken lately as to the constitutional position and functions of the House of Lords. Some people seem to suppose that it is a sort of supreme court of appeal—a kind of superintending providence set up to rejudge the acts of the representatives of the people, and to revise the conduct of the responsible Government. It is nothing of the kind. In the greater and, indeed, the most important part of the affairs of the nation the House of Lords has no right, no voice, no authority. It is the House of Commons, and not the House of Lords, which decides who shall be charged with the Government of our mighty Empire. If the House of Lords by a majority of four hundred to-morrow voted want of confidence in the Government no notice would be taken of it. If it censured a Minister no regard would be paid to such censure. It has no voice in the taxation of the people, it has nothing to say to the Army and the Navy. On the great issue of peace and war it has no authority. If it voted war to-morrow no war would be made. If it voted that peace should be concluded no peace would be made. In foreign affairs its voice has no weight. It has no

power over our Indian Empire. It may pass Coercion Bills for Ireland, but it cannot compel the Executive Government to execute them. In what appertains to the administration of the Home Office it is equally impotent. It might censure the Home Secretary to-morrow without disturbing his equanimity any more than that of the Chancellor of the Exchequer. I mention these things to remind you that, so far from according the House of Lords the position of a superintending providence, the Constitution has studiously withheld its authority over everything which in the ordinary course affects the interests and the daily life of the nation."

The House of Lords, as it is at present constituted, consists of three peers of the Blood Royal, 540 peers of England, Great Britain, or of the United Kingdom, 28 representative Irish peers, 16 Scotch representative peers, the 2 Archbishops and 24 Bishops of the Established Church, and 5 life peers.

Of the 600 odd peers, lay and spiritual, 400 seldom, or never, attend. The heaviest attendance occurred in 1893, when 419 peers voted against the Home Rule Bill, and 41 in its favour. In the last forty years there have only been forty divisions, just one per annum, in which more than 100 peers found themselves in the same lobby. The heaviest numbers have been on the Marriage with a Deceased Wife's Sister Bill, which, after they had thrown it out eight times, they suddenly accepted in 1896, without any apparent reason for this change of heart. No one was threatening them with violence, nor had any General Election been held for the express purpose of ascertaining the views of the electorate on the lawfulness of marrying sisters-in-law.

It is a popular delusion that the Peers, as a body, represent families of ancient lineage. Since 1831, no fewer than 215 peerages have been created by Liberal Governments. Of these, 30 have become extinct. In 1828, there were 128 Liberal peers. If none of them had turned their coats, there ought to-day to be 313 Liberal peers in the House of Lords. Liberalism, however, alas ! does not seem to be hereditary.

The following brief table shows the way in which

Liberalism in the Upper House has dwindled in the last forty years:—

		For.	Against.
1867	Disestablishment of Irish Church ...	97 ...	192
1870	University Tests Abolition	83 ...	97
1871	Abolition of Purchase	82 ...	162
1876	Burials Bill	92 ...	148
1880	Compensation for Disturbance Bill	51 ...	282
1884	County Franchise Bill	146 ...	205
1893	Home Rule Bill	41 ...	419
1906	Education Bill...	52 ...	132

From this it would seem, with the exception of the sudden rallying of the last remnant of the Whigs to the cause of Parliamentary Reform in 1884, the Liberals have never been able to put 100 Peers into the lobby in the last forty years, while the Conservatives have voted from 150 to 419. If the maximum Unionist majority may be measured by the vote against the Home Rule Bill, the Unionists have a ten-to-one majority in the House of Lords. If the divisions on the Education Bill be taken as a sample of the workaday strength of the party in the Upper House, the majority is for working purposes about three to one.

The most scathing description of the hollowness of the claim of the Peers to represent the ancient aristocracy of England was that which Mr. Disraeli put into the mouth of Mr. Millbank, in "Coningsby." Whether or not Millbank's diatribes represented the secret mind of him who was afterwards the Earl of Beaconsfield, the truth of things has seldom been so brilliantly described in any of his speeches or writings. I make no apology for quoting the passage describing Millbank's talk with Coningsby:—

"I know, sir, from your son," said Coningsby inquiringly, "that you are opposed to an aristocracy."

"No, I am not. I am for an aristocracy; but a real one, a natural one."

"But, sir, is not the aristocracy of England," said Coningsby, "a real one? You do not confound our peerage, for example, with the degraded patricians of the Continent."

"Hum!" said Millbank. "I do not understand how an

aristocracy can exist, unless it be distinguished by some quality which no other class of the community possesses. Distinction is the basis of aristocracy. If you permit only one class of the population, for example, to bear arms, they are an aristocracy; not one much to my taste, but still a great fact. That, however, is not the characteristic of the English peerage. I have yet to learn they are richer than we are, better informed, wiser, or more distinguished for public or private virtue. Is it not monstrous then that a small number of men, several of whom take the titles of Duke and Earl from towns in this very neighbourhood, towns which they never saw, which never heard of them, which they did not form, or build, or establish, I say is it not monstrous, that individuals so circumstanced should be invested with the highest of conceivable privileges—the privilege of making laws? Dukes and Earls, indeed! I say there is nothing in a masquerade more ridiculous."

"But do you not argue from an exception, sir?" said Coningsby. "The question is, whether a preponderance of the aristocratic principle in a political constitution be, as I believe, conducive to the stability and permanent power of a state, and whether the peerage, as established in England, generally tends to that end. We must not forget in such an estimate the influence which, in this country, is exercised over opinion by ancient lineage."

"Ancient lineage!" said Mr. Millbank; "I never heard of a peer with an ancient lineage. The real old families of this country are to be found among the peasantry; the gentry, too, may lay some claim to old blood. I can point you out Saxon families in this county who can trace their pedigrees beyond the Conquest; I know of some Norman gentlemen whose fathers undoubtedly came over with the Conqueror. But a peer with an ancient lineage is to me quite a novelty. No, no; the thirty years of the wars of the Roses freed us from those gentlemen. I take it after the Battle of Tewkesbury, a Norman baron was almost as rare a being in England as a wolf is now."

"I have always understood," said Coningsby, "that our peerage was the finest in Europe."

"From themselves," said Millbank, "and the heralds they pay to paint their carriages. But I go to facts. When Henry VII. called his first Parliament, there were only twenty-nine temporal peers to be found, and even some of them took their seats illegally, for they had been attainted. Of those twenty-nine not five remain, and they, as the Howards for instance, are not Norman nobility. We owe the English peerage to three sources: the spoliation of the Church; the open and flagrant sale of its honours by the elder Stuarts; and the borough-mongering of our own times. Those are the three main sources of the existing peerage of England, and in my opinion disgraceful ones. But I must apologise for my frankness in thus speaking to an aristocrat."

"Oh ! by no means, sir ; I like discussion. Your son and myself at Eton have had some encounters of this kind before. But if your view of the case be correct," added Coningsby, smiling, "you cannot at any rate accuse our present peers of Norman manners."

"Yes, I do. They adopted Norman manners while they usurped Norman titles. They have neither the right of the Normans, nor do they fulfil the duty of the Normans : they did not conquer the land, and they do not defend it."

"And where will you find your natural aristocracy ?" asked Coningsby.

"Among those men whom a nation recognises as the most eminent for virtue, talents, and property, and if you please, birth and standing in the land. They guide opinion ; and therefore they govern. I am no leveller : I look upon an artificial equality as equally pernicious with a factitious aristocracy ; both depressing the energies, and checking the enterprise of a nation. I like man to be free ; really free ; free in his industry as well as his body. What is the use of Habeas Corpus, if a man may not use his hands when he is out of prison ?"

"But it appears to me you have, in a great measure, this natural aristocracy in England."

"Ah ! to be sure ! If we had not, where should we be ? It is the counteracting power that saves us, the disturbing cause in the calculations of shortsighted selfishness. I say it now, and I have said it a hundred times, the House of Commons is a more aristocratic body than the House of Lords. The fact is, a great peer would be a greater man now in the House of Commons than in the House of Lords. Nobody wants a second chamber, except a few disreputable individuals. It is a valuable institution for any member of it who has no distinction—neither character, talents nor estate. But a peer who possesses all or any of these great qualifications, would find himself an immeasurably more important personage in what, by way of jest, they call the Lower House."

"Is not the revising wisdom of a senate a salutary check on the precipitation of a popular assembly ?"

"Why should a popular assembly elected by the flower of a nation be precipitate ? If precipitate, what senate could stay an assembly so chosen ? No, no, no ; the thing has been tried over and over again ; the idea of restraining the powerful by the weak is an absurdity ; the question is settled. If we wanted a fresh illustration we need only look to the present state of our own House of Lords. It originates nothing ; it has, in fact, announced itself as a mere Court of Registration of the decrees of your House of Commons ; and if by any chance it ventures to alter some miserable detail in the clause of a bill that excites public interest, what a clatter through the country, at Conservative banquets got up by the rural attorneys, about the power,

authority, and independence of the House of Lords; nine times nine, and one cheer more! No, sir, you may make aristocracies by laws, you can only maintain them by manners. The manners of England preserve it from its laws. And they have substituted for our formal aristocracy an essential aristocracy; the government of those who are distinguished by their fellow-citizens."

The number of English peers who can count ten ancestors of the same title is very small. The list is curious:—

	No. of Successors.		No. of Successors.
Arundell of Wardour, Baron	12	Massereene, Viscount	12
Bedford, Duke of	11	Meath, Earl of	12
Chesterfield, Earl of	10	Moray, Earl of	16
Clinton, Baron	21	Mowbray, Baron	24
De Clifford, Baron	25	Napier and Ettrick, Baron	11
Derby, Earl of	16	Norfolk, Duke of	15
De Ros, Baron	24	North, Baron	11
Devon, Earl of	14	Pembroke, Earl of	14
Digby, Baron	10	Petre, Baron	14
Dormer, Baron	13	Reay, Baron	11
Eglinton and Winton, Earl of	15	Rollo, Baron	10
Elphinstone, Baron	16	St. Albans, Duke of	11
Erroll, Earl of	20	St. John of Bletso, Baron	16
Ferrers, Earl	10	Saye and Sele, Baron	14
Fingall, Baron	11	Scarborough, Earl of	10
Galloway, Earl of	11	Seafield, Earl of	11
Grey, de Ruthven	24	Shrewsbury, Earl of	20
Hamilton, Duke of	13	Somerset, Duke of	15
Hastings, Baron	21	Southesk, Earl of	10
Hereford, Viscount	16	Stafford, Baron	11
Herries, Baron	14	Stair, Earl of	11
Home, Earl of	12	Strathmore, Earl of	14
Huntingdon, Earl of	14	Suffolk, Earl of	10
Huntley, Marquis of	11	Teynham, Baron	18
Kinnaird, Baron	17	Tweeddale, Marquis of	10
Kinnoult, Earl of	12	Westmorland, Earl of	13
Leeds, Duke of	10	Willoughby de Broke, Baron	19
Lindsey, Earl of	12	Winchester, Marquis of	16
Lothian, Marquis of	10	Winchelsea, Earl of	13
Loudoun, Earl of	11	Zouche, Baron	15
Lovat, Baron	16		

Out of 500 peers 60 can claim to have had 9 predecessors in the title, only 7 can claim 20. The immense majority of the peers are of modern creation.

In the above table only those are included who sit as English peers. There are many old peerages represented in the Scotch and Irish delegations. The representative peers from these two countries are selected by members of their own order. They represent in an aggravated form the party character of the House of which they form part. As the principle of proportionate representation is not recognised in their election, no Liberal Scotch peer has any chance of a Parliamentary career. An Irish peer may, if he pleases, stand for the House of Commons. No such privilege is allowed to the peers of Scotland. The contrast between the representatives of Ireland and Scotland in the two Houses of Parliament brings into strong relief the gulf between the People and the Peers :—

	Peers.		Commons.	
	Conservatives.	Liberals.	Unionists.	Home Rulers.
Ireland	26	0	19	82
Scotland	16	0	11	61

The assumption that peers are men of such transcendent merit or such exceptional genius that all their descendants to the tenth and twelfth generation must be more fit than other men to legislate wisely for the nation, will not hold water for a moment. Genius is not hereditary, neither is statesmanship. But even if it were, the origins of our titled legislators are not such as to justify any confidence in the law-making capacity of their progeny. The majority of men who are made peers are men who have made money and who can afford to buy their coronets. How much it cost Mr. Alfred Harmsworth in order to call himself Lord Northcliffe is not stated in any Parliamentary return. Neither do men know what money passed before other wealthy men became entitled to receive the King's writ summoning them to attend in their places in the House of Lords. But it is perfectly well known that peerages are never bestowed upon poor men. A title is the fancy trimming of a plutocrat. A big brewer has not achieved the climax of his social

ambition until he has scrambled over his beer barrels into the Painted Chamber. The House of Lords is replenished in our day by the steady-going partizans who have spent their money liberally in contesting seats in the House of Commons, and who in compensation are allotted an undisturbed seat in the House of Lords, not only for the rest of their days but for their sons and their sons' sons after them, till the crack of doom. It is also recruited by men who are not good enough for office, and who must therefore he fobbed off with something, and who receive a peerage as a kind of consolation prize. Then come notable proconsuls and ambassadors who receive a peerage as a kind of premium thrown in to gild their retiring pensions. Lord Milner, for instance, as a reward for having spent £250,000,000 in compelling the Boers to call the states which they govern colonies instead of republics, was empowered to call himself Viscount Milner instead of Sir Alfred. A thin stream of lawyers trickles into the House, men who have succeeded in their own profession and who have done well by themselves. The principle of recognising distinguished merit in every profession is good. But its over recognition is unnecessary. The incentive to become Lord Chancellor, to annex a province or to make a fortune, would lose none of its potency if, instead of a peerage with right of succession to male offspring, the fortunate hustler in the struggle for existence was compelled to content himself with a peerage for life. Even if his children were allowed to inherit the title, there is no necessity for adding thereto a prescriptive right, generation after generation, to a seat in the House of Lords.

Sir Wilfrid Lawson said that peers were made of men who had either "made much money, or bribed many voters, or brewed a great deal of beer, or killed large numbers of people." When the question "Who were their ancestors?" is looked into, it will be found that many owe their peerages to even less respectable sources than those enumerated by Sir Wilfrid Lawson. The peerages of Marlborough, Wellington, Nelson,

Wolseley, Alcester, and Roberts were won by distinguished service in naval or land warfare. To these men the barracks and the quarter-deck were antechambers to the legislature. Even if the camp and the deck are the best schools of statesmanship, the qualities that raise a soldier or a sailor to the top of his profession are seldom transmitted to his posterity. In India they have a caste of "hereditary clerks who pray to their inkhorns," but it is only here that the sons of successful soldiers and sailors are supposed to be qualified to become hereditary legislators who make laws for the Empire. There are many peerages founded by lawyers which may be said to have some claim to represent exceptional ability. But the majority of our peerages are bestowed for any and every reason except a proved capacity to take a useful part in legislation.

The origin of some of our peerages, notably the Irish peerages, is infamous. Titles have been given to men for deeds for which they deserved whipping at the cart's tail. Peerages were recognised as an indispensable part of the currency of corruption. "The majority of Irish titles," said the Unionist historian, Mr. Lecky, "are historically connected with memories not of honour but of shame." Mr. Swift MacNeill, M.P., in his trenchant and mordant book, "Titled Corruption," traces the sordid origin of some Irish peerages. Mr. J. Morrison Davidson has taken the same pains concerning peerages other than Irish.

A few extracts from Mr. MacNeill's book will illustrate the shamelessness of the way in which the peerages were used to purchase treason. The amendment repudiating the Union was defeated in the Irish Parliament of 1799 by a majority of one. To secure that one, Frederic French, who, just before the close of the debate, had publicly declared his intention of voting against the Union, was bought before the division by the peerage of Ashton. In 1799 Mr. Handcock, the member for Athlone, pledged himself before God and man to resist the Union to the last; he made songs and

sang them against the Union. He was made Lord Castlemaine, and the next year he voted, spoke, and sang songs in honour of the Union, to which he had vowed his eternal hostility only the year before. In most cases the traitors who sold themselves to the Unionist Government were paid in Irish peerages, a kind of debased currency. But some received English peerages. Says Mr. Lecky—

"In the majority of cases these peerages were simple, palpable open bribes, intended for no other purpose than to secure a majority in the House of Commons. The most important of the converts was Lord Ely. He obtained a promise of an English peerage, and he brought to the Government at least eight borough seats." [1]

In addition to his peerage Lord Ely received £45,000 compensation for the disfranchisement of six of his eight boroughs.

Lord Cloncurry, another peer of the United Kingdom, "obtained this honour by giving money which was to be applied by Government for the purchase of seats and the bribing of members of the House of Commons."

But it is unnecessary to go seriatim over the black list. Sufficient has been quoted to show that the hereditary House of Lords has been often recruited by men whose deserts would have been more justly rewarded by incarceration in a convict prison. The progenitors of some of our noble legislators may have been men distinguished above their fellows for virtue and genius. But the progenitors of so many of the others were scamps and scoundrels that it is impossible to say, without looking up Debrett, whether a man is a hereditary legislator because his forefather was pre-eminent for rascality or for public spirit. Probably, as a rule, he belonged to the majority—he was pre-eminent for nothing, but belonged to the great army

[1] "Titled Corruption," p. 49.

of wealthy, respectable mediocrities who rendered yeomen's service to their party, and who received the partisan's reward.

It is forty-eight years since John Bright described the House of Lords in terms which need but slight variation to describe the House as it exists to-day. He said :—

"The House of Peers, as you know, does not travel very fast —even what is called a Parliamentary train is too fast for its nerves ; in fact, it never travels at all unless somebody shoves it. If any man proposes to reform the House of Commons just so much as and no more than will allow it to keep pace with the wishes of the House of Lords, I would ask him not to take any trouble in the matter, but just to leave it exactly where it is. If you want it to represent the nation, then it is another question ; and, having come to that conclusion, if we have come to it, there is no great mystery, I think, as to the manner in which it can be brought about. The question between the Peers and the people is one which cannot be evaded. How can I reconcile a free representation of the people in the House of Commons with the inevitable disposition which rests in a hereditary House of Peers? Now, we must decide this question. Choose you this day whom you will serve. If the Peers are to be your masters, as they boast that their ancestors were the conquerors of yours, serve them. But if you will serve only the laws, the laws of your country, the laws in making which you have been consulted, you may go on straight to discuss this great question of Parliamentary Reform.

"I am scarcely able to discover one single measure important to human or English freedom which has come from the voluntary consent and goodwill of their House. And, really, how should it? You know what a Peer is. He is one of those fortunate individuals who are described as coming into the world 'with a silver spoon in their mouths.' Or to use the more polished and elaborate phraseology of the poet, it may be said of him—

> 'Fortune came smiling to his youth and woo'd it,
> And purpled greatness met his ripened years.'

When he is a boy, among his brothers and sisters he is pre-eminent : he is the eldest son : he will be 'my lord' ; this fine mansion, this beautiful park, these countless farms, this vast political influence, will one day centre on this innocent boy. The servants know it, and pay him greater deference on account of it. He grows up and goes to school and college ; his future position is known ; he has no great incitement to work hard, because whatever he does it is very difficult for him to improve

his fortune in any way. When he leaves college he has a secure position ready-made for him, and there seems to be no reason why he should follow ardently any of those occupations which make men great among their fellow-men. He takes his seat in the House of Peers; whatever be his character, whatever his intellect, whatever his previous life, whether he be tottering down the steep of age, or be he passing through the imbecility of second childhood, he gives his vote for or against, and, unfortunately, too often against, all those great measures on which you and the country have set your hearts. There is another kind of Peer which I am afraid to touch upon—that creature of—what shall I say?—of monstrous, nay, even of adulterous birth—the spiritual Peer. I assure you with the utmost frankness and sincerity that it is not in the nature of things that men in these positions should become willing fountains from which can flow great things for the freedom of any country."[1]

Why should these men rule over us forever?

[1] Bright's Speeches, October 27, 1858, p. 282.

PART II

WHAT THE HOUSE OF LORDS HAS DONE

CHAPTER I

BEFORE THE REFORM ACT OF 1832

"SOME people tell us," said John Bright in 1858—

> "That the House of Lords has in its time done great things for freedom. It may be so, though I have not been so successful in finding out how or when as some people have been. At least since 1690, or thereabouts, when the Peers became the dominant power in this country, I am scarcely able to discover one single measure important to human or English freedom which has come from the voluntary consent and goodwill of their House."

Mr. Bright, it will be noticed, selects the year 1690 as that in which the Peers became the dominant force in this country. For purposes of comparison between the two Houses of Parliament, 1690 is much too distant a date. The division of Parliament into two Houses dates from the reign of the Second Edward. But the division between the aristocratic and democratic element in Parliament, if we except the period of the first Stuarts, began after the passage of the Reform Act of 1832.

After the Wars of the Roses, the Tudor despotism found little to choose between Lords and Commons in subservience to its will. Only twenty-nine temporal peers received writs of summons to the first Parliament of Henry VII. During the whole reign of Henry VIII. Hallam says he can only find one instance in which the Commons refused to pass a Bill recommended by the Crown. When the dynasty passed on the death of Elizabeth from the Tudors to the Stuarts, the number of temporal peers was only fifty-nine. The first James created sixty-two peers, the first Charles fifty-nine.

The new creations, therefore, largely exceeded the old. They were for the most part king's men, and the House of Lords, as was to be expected, played but a small part in the great struggle which saved Parliamentary government in the middle of the seventeenth century. The two Houses had occasional collisions over the vexed question of the financial privileges of the Commons. At a conference held in 1640, the Lords protested that "My Lords would not meddle with matters of subsidy which belong naturally and properly to you —no, not to give you advice therein, but have utterly declined it."

Sturdy Mr. Pym, however, refused to accept their disclaimer. He told them that they had not only meddled with matters of supply, but that they had both "concluded the matter and order of proceeding, which the House of Commons takes to be a breach of their privilege, for which I was commanded to desire reparation from your Lordships."

The Lords made the desired reparation by declaring that they did not know they were breaking a right of the Commons by merely suggesting that supply should have precedence over the consideration of grievances. Such a suggestion, however, revealed the cloven foot. No supply until grievances are redressed was the rallying cry of the friends of liberty, and it is significant that in one of the first instances of a collision between the two Houses, the Peers are found opposing themselves to the fundamental principle which has been the key to the liberties of Britain.

The struggle between the King and the Parliament had not proceeded very far before a contest arose between the two Houses on the question of the right of the Bishops to sit in the Upper House. In 1641 the House of Commons sent up a Bill "to disable the Bishops and clergy from all temporal functions." The Upper House held two conferences with the Commons, and then rejected the Bill as an invasion of their rights. The Commons might with equal reason cut off the barons, or any other class of the peerage. In the

following year the Commons sent up a Bill for "taking away the Bishops' votes in Parliament." Most of the Bishops, cowed by the vehement demonstrations of popular antipathy, stayed away. The temporal peers passed the Bill, and the King, acting under the influence of his Roman Catholic Queen, gave it his assent.

The outbreak of the war carried off many peers to the Royal Standard. The remnant of the House of Lords refused to concur in the vote of the Rump of the House of Commons, declaring Charles Stuart guilty of treason, and constituting a High Court of Justice for his trial. Thereupon the Rump, on January 4, 1649, passed the famous resolution :—

"The Commons of England assembled in Parliament, being chosen by the people representing them, are the supreme authority of the nation. Whatever is enacted and declared to be law by the Commons hath the force of law without the consent of the King or the House of Lords."

This was followed up on February 10th by a still more trenchant resolution :—

"That the House of Peers in Parliament is useless and dangerous, and ought to be abolished. And that an Act be brought in to that purpose."

The House of Lords reappeared after the Restoration. The first time that they took action differentiating their policy from that of the Commons was significant. Charles the Second had promised pardon to all rebels except those excluded by Act of Parliament. The House of Commons sent up its list of proscribed persons. The House of Lords enlarged that list by dooming the judges of Charles the First who had surrendered, and added nine other names to the list of the doomed. This was too much for the Commons who struck out the additions proposed by the Peers, and added a clause that no one who had surrendered should be executed except under a special Act of Parliament, passed for the purpose.

In the enactment of the series of persecuting edicts

which were in flagrant violation of the liberty of conscience promised in the Declaration of Breda, the Peers did nothing to restrain the fanaticism and intolerance of the Lower House. They joined hands with the House of Commons in substituting an excise duty for the land tax, whereby, in Mr. Spalding's words, "by a vote of their own House they relieved themselves from all the most onerous liabilities in respect of land, by virtue of the payment or performance of which they had originally become entitled to their seats as peers." [1]

"The House of Lords," says Hallam, "after the Restoration contained an invincible majority for the Court ready to frustrate any legislative security for public liberty. Thus the Habeas Corpus Act first sent up to that House in 1674 was lost there in successive sessions. It was not until 1679 that the Lords consented to pass this 'great symbol of our liberty.' In 1680 the Lords threw out the Exclusion Bill which would have saved the country the disastrous years of James II.'s reign."[2]

Charles the Second created sixty-four peers. James the Second, before his reign was cut short by the Revolution of 1688, had created eight. Altogether the Stuarts made 193 peerages between 1603 and 1688, not so many as the Liberals created between 1832 and 1894. While the Stuarts were on the throne, 99 peerages became extinct. There were only 153 temporal peers when William of Orange succeeded to the vacant throne.

If there was ever a period in the history of England in which it may be alleged that the House of Lords did any good it was after the Revolution of 1688.

It was the Lords Temporal and Spiritual who, being left almost the only remaining authority in the State after the flight of James, took the lead in framing the Declaration of Rights, and in welcoming William and Mary to the vacant throne. From that day, for half a

[1] Spalding, "The House of Lords," p. 66.
[2] "The Liberal Platform," pp. 171–2.

century and more, the Whig peers ruled England—the House of Lords in the reign of Queen Anne was more Liberal than the House of Commons.

It is strange, considering the present attitude of the two Houses, to recall the fact that in Queen Anne's reign, it was the House of Commons which was intolerant, and the House of Lords which was Liberal. It was the Lower House which was all for the harrying of the Nonconformists, who found their only friends in the Whig majority in the House of Lords.

The High Church party was supreme in the House of Commons and in the constituencies. It passed a Bill suppressing occasional conformity by large majorities for three years in succession, and in 1702, in 1703, and in 1704, the House of Lords threw out the Bill. In those days the Archbishop of Canterbury fought side by side with the Whigs for the rights of the Dissenters!

The General Election of 1710 was as much of a landslide to Toryism as that of 1906 was to Liberalism. 270 members lost their seats. The High Churchmen triumphed, and the Whigs bowed to the storm. The Occasional Conformity Bill was passed. It enacted that—

"All persons holding positions of profit or trust, and all common councilmen in corporations, who while holding office were proved to have attended any Nonconformist place of worship, should forfeit their position and should continue incapable of public employment until they should depose that for a whole year they had not attended a conventicle."

By way of stimulating the pious zeal of the Anglicans a reward of £40 was promised to any informer who could secure the conviction of an occasional conformist. This measure was practically forced upon the Lords by the Church majority in the Lower House, as a means of "quieting the minds of Her Majesty's Protestant subjects dissenting from the Church of England."

This measure of persecution having failed to accomplish its purpose, the intolerant highfliers of the Lower

House brought in the Schism Bill, and carried it by a majority of two to one. The object of this Bill was "to secure a monopoly of education for the Church of England."

"No person was to keep a school, or act as private tutor without an episcopal license, which was only to be granted on a certificate of strict conformity and on subscribing the oaths of allegiance and supremacy. The alternative was imprisonment without bail."[1]

By the Schism Bill Dissenters were forbidden to educate their own children, and their academies for training their own ministers were to be closed, although they were excluded from the Universities. The reason why this peculiar malevolence was shown to Dissenters was because they were loyal to the Protestant religion and the Revolution settlement. By securing a monopoly of education for Churchmen they hoped to instil the poison of Jacobitism into the minds of the children and bring about the restoration of the Stuarts. The same kind of conspiracy, applied not to the Revolution of 1688, but to the Reformation, animates the most zealous of the Anglicans of our time. But in Queen Anne's time the Anglicans were as all-powerful in the Commons as they are to-day in the House of Lords. In 1714 it was the Whig peers who modified the atrocious severity of the Bill. It was only carried through the Upper House by a majority of five, and thirty-three Peers recorded their protest against the measure as "needless, unjust, and pernicious." It was extended to Ireland, and received the Royal Assent. Fortunately on the day when it was to have come into operation the Queen died, and the odious Schism Act never came into operation.

Mr. Lecky pays a high tribute to the Whig peers who, in the early part of the reign of George I., were in the ascendant in the House of Lords. He says:—

[1] Aubrey's "Rise and Growth of the English Nation," vol. iii. pp. 107–8.

"In general, the services of the Peers to the cause of civil and religious liberty at the time we are considering were incontestable; and the advantage of an Upper House to this portion of our history can scarcely be questioned by any one who regards the Revolution and the principles it established as good." [1]

Comparatively good as was the House of Lords in those days, it came into collision with the House of Commons on a matter in which the Lower House showed a sounder sense of the genius of the Constitution than the House of Peers. Yet it was a matter which primarily concerned the Lords themselves. Alarmed by the creation of twelve Peers in the previous reign for the purpose of securing a majority for the Court, and anxious to prevent the adulteration of the peerage by new creations from the King's favourites, the Whig Lords, with the King's assent, brought in a Bill in 1719 which forbade the creation of more than six new peerages. The King might fill up vacancies created by the extinction of existing peerages, but he was to make no new peers. The system by which sixteen Scotch peers were elected was to be abolished, and twenty-five Scotch peers were to have hereditary seats in Parliament. The Bill would, if it had been carried, have made the Peers a privileged order, who could neither be renewed nor swamped by the Royal prerogative. New blood could only be slowly filtered into the Upper House as peerages became extinct. The House of Lords passed the Bill through all its stages, but the House of Commons, which was full of country gentlemen who hoped some day to have the chance of a peerage, promptly threw it out by a majority of 92. The door therefore was left open, and is still open, for the creation of as many peers as may be necessary to bring the Upper House into harmony with the will of the people.

The only other notable clash of opinion between the two Houses in the eighteenth century was over Mr.

[1] "History of England," vol. i. p. 186.

Fox's India Bill in 1783. This Bill, brought in by the Coalition Government of Fox and Burke, placed the administration of India under the control of a Board of seven persons to be appointed by Parliament for a term of four years. The House of Commons sent up the Bill by a two to one majority—208 to 102. The House of Lords threw it out by 95 to 76. The King, who hated the Bill and its authors, promptly dismissed the Coalition Government and made Pitt Prime Minister. On an appeal to the country the action of the House of Lords was approved by the constituencies. Fox's party lost 160 seats, and the tidal wave of reaction gave Pitt a powerful majority. The circumstances somewhat resembled the history of the action of the Peers on the Home Rule Bill nearly a hundred years later.

In the eighteenth century it may be admitted that the House of Lords was no worse, and sometimes a little better, than the Lower House. But as the Peers practically nominated the Lower House in the latter part of that period, this is not very surprising.

CHAPTER II

HOW THE REFORM ACT WAS CARRIED

THE history of the House of Lords may be divided into three parts. At first the Peers and Commoners sat together. Afterwards the Peers dominated, and at last practically nominated the House of Commons. The third period dates from the Reform Act of 1832, when for the first time Lords and Commons were arrayed against each other as representatives of antagonistic principles. Before describing what the Lords have done since the emancipation of the Commons, it may be well to pause a little to describe how that emancipation was brought about.

This is no ancient history. The lesson which the Peers and the People mutually taught each other in the famous struggle of 1831–2 has influenced the relations between the two Houses down to the present day. That lesson—one of the most dangerous that can be taught to any people—was the supremacy of brute force in the settlement of political questions. The Reform Act was not carried by reason but by violence. The Peers capitulated to the menace of revolution. Incendiarism, pillage, murder—these were the only arguments to which the House of Lords would lend an ear. The aid of crime was needed to carry the Reform Act; the rights of the people could only be extorted from the Peers by terrorism and the menace of civil war.

That was the fatal lesson which the democracy

received in its cradle from the House of Lords. If Russia is a Despotism tempered by Assassination, England is an Oligarchy tempered by Intimidation.

To overcome the resistance of the House of Lords to Reform it was not sufficient to rely upon constitutional means. Agitation which was law abiding and orderly was as the idle wind that whistles round the Victoria Tower. The fountains of the Great Deep had to be broken up, the foundations of society disturbed, conspiracy set on foot, and the great red dragon of revolution held in leash ready to be unloosed before the House of Lords would admit the necessity of Reform.

What has been the result? The People, from that time to this, have never forgotten the lesson. The House of Lords has been tolerated because it can always be terrorised. This constant underlying consciousness that without a display of turbulence below, there is no hope of concession from above, has been one of the poisonous inheritances which we owe to the House of Lords. How deeply it has sunk into the hearts of Englishmen may be gauged by the following remarkable declaration made by a statesman in temperament as Conservative as in conviction he is Radical —Mr. John Morley. Speaking of the House of Lords in 1884, he said:—

"You are dealing with a vast and overwhelming preponderance, a huge deadweight of prejudice, of passion, of interest, of bigotry, of blind class and party spirit—impenetrable by argument, immovable by discussion, beyond the reach of reason, and only to be driven from its hereditary and antiquated entrenchments—not by argument, or by reason, or by discussion, but by force."

There is a certain brutality of the barbarian in that phrase. The sword of Brennus has seldom been more defiantly flung into the political scales. Mr. Chamberlain, whose temperament is as Radical as his political environment is Conservative, did not overstate the case when he told a Welsh audience in 1884—

"The chronicles of the House of Lords are one long record of concessions delayed until they have lost their grace, of rights

denied, until extorted from their fears. It has been a history of one long contest between the representatives of privilege and the representatives of popular rights; and during this time the Lords have perverted, delayed, and denied justice, until at last they gave, grudgingly and churlishly, what they could no longer withhold."[1]

The voice of the representatives of the people has ever been disregarded in the Painted Chamber until it is re-echoed by the angry clamour of the multitude. The Lords can veto the measures of the Commons, but they are paralysed by the menaces of the people. Their existence is a premium upon agitation, for to induce them to concede a reform it is necessary to threaten them with a revolution. The winter of 1831–2 inaugurated the reign of the English democracy by teaching them to despise a Second Chamber so foolish as to reject as pernicious one year a measure which it was so weak as to inscribe on the Statute Book the next.

It is worth while briefly to recapitulate the salient features of that great object-lesson in practical politics.

England in the later twenties was seething with misery and discontent. There is an ominous resemblance between the state of Russia to-day and of England on the eve of the Reform Bill.

Dynamite had not then been invented, and assassination has never been acclimatised in Britain. Neither did our fathers harry the Jews. But discontent was almost universal. Desperate men banded themselves together to do desperate deeds. Ricks were fired, and farmsteadings reduced to ashes. Mills were burnt and machinery destroyed. Occasionally discontent tried to become articulate as at Peterloo, and was massacred back into dumbness and despair. Secret combinations were formed among the artisans of the North and the agricultural labourers of the South. Over the whole land a sullen horror brooded like a nightmare.

In the midst of the universal unrest, the French, as

[1] Denbigh, October 20, 1884.

is their wont, flashed a red ray of revolutionary light across the gloom. Almost without an effort, the Citizen King was established on the throne of the Bourbons, and the flight of the Legitimist monarch gave a fillip to the hopes of the masses everywhere. It was in these circumstances and in such an environment that the great struggle began.

"At that time the so-called House of Commons was in the pocket of the House of Lords: 471 members, out of a House of 658, were returned by 267 persons of whom 144 were peers; 16 other members were returned by Government influence. Only 171 members were independent."[1]

The independent members were returned at an expense so enormous that the whole representation of the people was in the hands of the wealthy classes. Members who were returned for pocket boroughs considered themselves liberally treated if they were asked for no other pledge than that they would resign whenever their views differed from those of their patron. While many of the most populous towns had no representative in Parliament, two members were returned to represent a stone wall, other two for an empty park, and two more for a green mound.[2] It was the veriest travesty of a representative system. Yet to the House of Lords and its illustrious chief, the Duke of Wellington, it was almost ideally perfect.

Said the victor of Waterloo from his place in Parliament in 1830:—

"I have never read or heard of any measure up to the present moment which could in any degree satisfy my mind that the state of the representation could be improved or be rendered any more satisfactory to the country at large than at the present moment."[3]

Very shortly afterwards the Government was defeated, and Lord Grey took office with a programme of Reform.

[1] "Oldfield's Representative History," vol. vi. pp. 285–300.
[2] Speech of Sir John Russell, March 1, 1831.
[3] 3rd Series, Hansard, vol. ii. col. 1102.

The new Ministry had no majority to speak of in the House of Commons. It was in a hopeless minority in the House of Lords. Lord John Russell introduced a Reform Bill which disfranchised outright 60 boroughs with less than 2,000 inhabitants, while 47 others each lost one of their members. Of the 167 seats thus obtained 62 were not to be filled up. The others were distributed as follows: London, 8; Large towns, 34; English counties, 55; Scotland, 5; Ireland, 3; and Wales, 1. The ten-pound borough householder was to receive a vote, and the leaseholders and copyholders in the counties. The introduction of the Bill was hailed with great enthusiasm in the country. But in the House of rotten boroughs, the second reading was only carried by a majority of one. And before it went into Committee, Ministers were left in a minority of eight.

Parliament was at once dissolved. The people rallied everywhere to the cry, "The Bill, the whole Bill, and nothing but the Bill!" London was illuminated by order of the Lord Mayor, an order enforced by King Demos, who, obeying his instinct as to the only way in which to put the fear of God into the heart of the Peers, smashed all windows that were unlit, including those of Apsley House. It was a grim earnest of things to come, the first taste of the *ultima ratio* of the Democracy. The election went everywhere in favour of the Reformers. One hundred anti-Reformers lost their seats. The county members who had opposed Reform "went tumbling like ninepins." Out of 82 county members only 6 were returned to oppose Reform. When Parliament was opened it was found that the Reform Ministry had a majority of 136 returned with an express mandate to carry "the Bill, the whole Bill, and nothing but the Bill."

The defeated Tories resorted to obstruction. From Midsummer till well-nigh Michaelmas they resorted to all the methods of delay, which in those days were primitive and rudimentary. But at last the Bill was sent up to the House of Lords. The second reading was moved on October 2nd.

The measure was admittedly one which struck a heavy blow at the powers and prerogatives of the Peers. The House of Lords, therefore, only exercised a natural instinct in rejecting it on October 7, 1831, by a majority of 199 to 158, after five nights' debate. No vote could have been more legitimate or more justifiable if it be accepted that the function of the House of Lords is to stem the rising tide of democracy and to preserve intact the aristocratic institutions of the country. It was the *reductio ad absurdum* of the constitutional paradox. The House of Lords, whose existence is defended by asserting the necessity for an effective check upon a craving for revolutionary change, and which is furnished for that purpose with a decisive veto upon every measure which in its mature and hereditary wisdom it regards as unwise, was fifty years ago confronted by a popular demand for a revolutionary change which it regarded as not merely unwise but dangerous in the extreme. It showed the courage of its convictions; it discharged its function; it rejected the Bill. The result was a conclusive demonstration of the impossibility of working constitutional machinery on constitutional principles if the House of Lords were to exercise the powers with which it is vested by the law.

The immediate answer of the people was to resort to tumultuary violence which, by an inevitable law, speedily developed into crime. They hustled and howled at the bishops, detesting them more than all others. And with cause. For until the day of the fatal division it had been the established custom of the Lords Spiritual to vote with the Government of the day. On this occasion the Lawnsleeves broke loose. The Primate denounced the Bill as "mischievous in its tendency and dangerous to the fabric of the Constitution." Twenty-one of the right reverend Fathers in God voted against Reform—only two in its favour. If the Bishops had voted for the Bill it would have been carried by a majority of one. So Demos took to drubbing the Lords Spiritual "to teach them to behave," until the bishops hardly dared to venture into the streets.

But it was not enough to rabble the bishops and assault dukes and lords on their way to Parliament House. It was necessary to intimidate the King. A menacing procession of 60,000 persons marched to the gates of St. James's Palace to present an address to the King—an address which was almost in the nature of a command. "Retain your Ministers. Press on the Reform Bill, and expel all anti-Reformers from your Court." "Your will shall be done," replied the frightened monarch. Then the multitude, elate with its triumph over its sovereign, gave itself up to what in our day is known as mafficking. They bellowed threats of violence against the Peers and the Bishops, they mobbed any unfortunate Tory they found in the streets, and finally relieved their excited feelings by breaking some more windows.

In London the demonstrations of hostility to the Peers did not go beyond rough horseplay, accompanied by threats of violence to come. It was far otherwise in the provinces. The pent-up violence of the hour found vent in outbreaks of incendiarism and of crime. The mob at Nottingham got out of hand and expressed their antipathy to the political principles of the Duke of Newcastle by giving to the flames the palatial castle which looks down from its lofty eminence upon the great industrial town which lies at its foot. Riotous mobs assembled, destroying property and subverting order at Derby, Loughborough, and other places. What was more serious was that, as in Russia at the present time, the Government could no longer rely implicitly upon the obedience of its armed forces. Lord Melbourne, who was then Home Secretary in the Reform Administration—although he personally cared little for Reform—wrote to the King's private secretary on October 25th:—

"I am extremely concerned to learn from Dorsetshire that the spirit of party occasioned by the recent election prevails to such a degree in the yeomanry corps of that county, that it is deemed inexpedient to call upon them to act in case of riot provided the doing so can possibly be avoided."[1]

[1] Lord Melbourne's Papers, p. 134.

Two troops of Kentish yeomanry actually resigned because their commanding officers had voted against the Reform Bill. It was reserved for Bristol to give the country the most terrible illustration of the danger of confronting the infuriated populace by a military force which was in no mood to punish turbulence, so long as it was essential to overawe the Lords.

The Recorder of Bristol, Sir Charles Wetherell, had distinguished himself by the vehemence and ardour with which he had opposed the Reform Bill. As ill-luck would have it, he had to attend Quarter Sessions at Bristol soon after the Bill was rejected by the Lords. Sir Charles Wetherell was a stern, unbending Tory who had no patience with the mob, and he scouted the urgent entreaties of the Mayor of the city that he would postpone the Quarter Sessions till some more convenient season, when the popular fury had had time to cool. Punctually on October 29th Sir Charles made his public entry into the city. As punctually an enormous multitude assembled to give him a public reception, the like of which had never before been accorded to any Recorder at Bristol or elsewhere. Amid the hooting and hissing and howling of the mob, one of whom punctuated the chorus of execration by hurling a stone through the windows of his coach, Sir Charles Wetherell stoutly forced his way to the Court. It was soon evident that no Sessions could be held, and that any attempt to transact business would be broken up by the mob. With the aid of a handful of constables, Sir Charles made his way to the Mansion House.

The situation was serious. The local authorities had no adequate force of constabulary to control the mob. The colonel in command of the nearest military sympathised with the populace, and put every obstacle in the way of the use of the soldiers against the people. The whole city was up. Probably three-fourths or nine-tenths of the citizens only wished to give the Recorder a fright, and to impress upon his mind the intensity of the antipathy excited by his opposition to the Reform Bill. But when thousands of men are in tumult the

reckless and unscrupulous minority is master of the situation. The mob attacked the Mansion House, where the Recorder had taken refuge, clamouring for their prey. If they had laid hands on him he would never have emerged alive from the howling maelstrom of excited ruffianism which surged round the Mansion House. To save his life the proud old Tory was compelled, sorely against his will, to assume the dress of a postillion and escape ignominiously from the city. The mob, on finding that its destined victim had escaped, took vengeance on the Mansion House. The criminals realised that the city was in their hands. For three days scenes recalling the worst days of the French Revolution were witnessed in Bristol. The Mansion House, the Custom House, the Excise Office were burnt to the ground. The prisoners were let loose from prison to join in the Carnival of Crime. In Bristol, as in London, the wrath of the people was specially concentrated on the Church, whose prelates had betrayed their trust and voted against the people. In London the Bishops were only mobbed. In Bristol the Bishop's palace was given to the flames. After three days the authorities succeeded in finding some troops whose officers did not hesitate to shoot, and the riot was quelled as by magic. The "Encyclopædia Britannica" thus chronicles this startling episode in the history of the city :—

"The Reform Riots were called 'The Bristol Revolution,' but were simply a revolt of the lowest stratum of society, in whom the mania for plunder superseded all political principles. Forty-five houses, the Bishop's palace, and the prisons were burnt to the ground; twelve of the rioters were killed by the soldiers; several perished in their own fires; four were hanged; thirty were imprisoned; the colonel of the troops committed suicide; and the city was mulcted in £68,208 damages."

"The lowest stratum of society" would never have got out of hand if society itself had not been in revolt against the existing order. It was no doubt the criminals who fired the Bishop's palace, but it was the disappear-

ance of the moral pressure by which in ordinary times public opinion keeps the criminals in restraint that rendered the crime possible. A similar phenomenon is to be observed in many parts of Russia where the bandits of society pursue their depredations with the tacit approval of the law-abiding community, who welcome everything that embarrasses the Government. Writing upon a related subject, Lord Melbourne told the King :—

"It is the public feeling which is dangerous, not the political unions. If these latter should adopt any of the measures mentioned in my former letter, such as the resistance of the payment of taxes, unless they are supported by a large proportion of the middle and even of the better classes of society, the attempt will be abortive and ridiculous. If they are so supported it is unnecessary to say how critical the state of affairs will become." [1]

That the middle and better classes of society sympathised with the demand for reform no one could doubt. Newspapers appeared in mourning, and the bells of the churches rang muffled peals. Everywhere men began organising themselves into political unions which, although not armed, could easily have developed into armed forces. Earl Grey wrote to Lord Melbourne, November 16, 1831 :—

"I have been thinking a great deal about this Birmingham Union. The sort of organisation which is now proposed is not calculated for the discussion of public questions or for petitions upon them. It is of a military character, for active purposes, now alleged to be for the preservation of the public peace, but easily convertible to any other objects. Unarmed as a body, they possess arms as individuals, and being previously formed into companies and regiments and divisions under the name of tithings, &c., they may at any moment appear as an armed and disciplined force. The danger of this I need not point out to you. The question is, how to deal with it. And I cannot help thinking that the proceeding, of which we are expecting an account from Birmingham, cannot be sanctioned by the law. You will, of course, bring under their notice the facility with which a body so organised, though not with arms in the first instance, may become an armed force." [2]

[1] Melbourne Papers, p. 134. [2] Ibid., p. 136.

The other side took alarm. The *Times* and the *Morning Post* advocated the general enrolment and arming of all the respectable classes under the title of a National Guard. Lord Melbourne wrote begging Sir F. Burdett to take no part in the formation of the London and Westminster Political Union, and on his refusal all such associations were declared to be illegal.

Parliament, which had been prorogued on the 20th of October, reassembled on December 6th. Six days later Lord John Russell introduced the Reform Bill. The second reading was carried after two days' debate by a majority of 162. On March 22nd the Bill was sent up to the House of Lords. The Duke of Wellington stood firm, but the disintegrating influence of Royal pressure and Ministerial blandishment reinforced the grim and bloody arguments of the agitators in the country. The Thanes fled from him, and the second reading was carried by a majority of 9. Fifteen bishops voted against the Bill, but 12 voted for it.

It was, however, frankly admitted that the Bill had been spared on the second reading only in order that it might be mutilated in Committee.

By a majority of 35 the Tory peers carried a motion to consider the enfranchising before the disfranchising clauses of the Bill. They had been warned by the Government that such a decision would be accepted as a rejection of the measure. Undeterred by this ultimatum, they carried their amendment. As the King refused to create new peers Lord Grey placed his resignation in the hands of the King, who at once sent for Wellington and Peel and asked them to form a Ministry. There was a hostile majority of 162 in the House of Commons. Nor was there the least chance of success if they appealed to the country. While they were deliberating the people began to make ready the only argument which carried conviction to the Peers. If Nottingham and Bristol had not been sufficient there was plenty more to follow.

"The cry rang through the country, 'The Bill, the whole Bill, and nothing but the Bill!' William IV. was hissed as he

passed through the streets, and the walls blazed with insulting lampoons and caricatures. Signboards which displayed the King's portrait were framed with crape, and Queen Adelaide's likeness was disfigured with lamp-black. Rumours of projected riots filled the town, and whispers of a plot of seizing the wives and children of the aristocracy led the authorities to order the swords of the Scots Greys to be rough-sharpened." [1]

Not before time were these swords rough-sharpened, but it is easier to sharpen a sword than to make sure that its wearer will draw it against the people. There is little doubt that if the Duke of Wellington had taken office he would have had to begin by dissolving Parliament and proclaiming martial law. He would then have had to face revolutionary risings without any troops upon whom he could depend. Mr. Spalding says :—

"The consternation and resentment of the people were unbounded. Meetings were held everywhere to demand the recall of the Ministry ; and resolutions were passed binding all present to refuse payment of taxes until the Reform Bill was passed into law. The Common Council prayed the House of Commons to refuse supplies ; and the House of Commons, not to be behindhand in asserting the will of the people, adopted a humble address to the King, asking that he would 'call to his councils such persons only as will carry into effect, unimpaired in all its essential provisions, that Bill for reforming the representation of the people which has recently passed this House.' The people were prepared to support their words by actions. There is no doubt that if the crisis had been greatly prolonged insurrections would have broken out in all parts of the country ; and it was even reported that the army could not be trusted in such an event."

Birmingham stood ready to march on London. Mr. Thomas Attwood, with 150,000 men of the Midlands, talked considerably of what they were about to do, after the manner of Birmingham. Lord John Russell consoled them by a letter in which he told them, "Our prospects are obscured for a moment, but I trust only for a moment. It is impossible that the whisper of a faction should prevail against the voice of a nation."[2]

[1] Stuart Reid's "Russell," p. 83.
[2] "The House of Lords," p. 166.

When it was clear that the Opposition dare not assume the responsibility of undertaking to carry on the King's Government, the King was compelled to recall Lord Grey. But Lord Grey would only take office on his own terms. The King had created sixteen peers before the second reading of the first Reform Bill, but he shrank from making as many new creations as would be necessary to break down the Tory majority in the House of Lords.

But while Majesty was deliberating, the People were getting altogether out of hand. One fine morning in May, when the citizens of London left their homes for business, they were startled by finding the whole town placarded with bills containing the imperious suggestion: "To stop the Duke: Go for Gold!" Great is the force of suggestion, and the effect multiplies with each repetition. At first only the more ardent reformers acted upon the advice. They exchanged their notes for gold, withdrew their deposits, and paraded the fact that they had done so. Soon other timid and prudent men followed their example. A run upon the banks set in which showed signs of developing into a veritable panic. "To stop the Duke: Go for Gold!" "To stop the Duke: Go for Gold!" In a few days the suggestion might have paralysed the whole vast machine of industry whose mainspring is credit.

"To stop the Duke: Go for Gold!" The King gave way. The Duke was stopped. Lord Grey was told he could make as many new peers as were necessary. The run upon the banks ceased. The crisis was at an end.

Before Lord Grey consented to resume office he received in writing the following assurance from the King:—

"The King grants permission to Earl Grey and to his Chancellor, Lord Brougham, to create such a number of peers as will be sufficient to ensure the passing of the Reform Bill, first calling up peers' eldest sons. — WILLIAM R., Windsor, *May* 17, 1832."

The next day the King wrote to Lord Grey as follows:—

"His Majesty authorises Earl Grey, if any obstacle should arise during the further progress of the Bill, to submit to him a creation of peers to such an extent as shall be necessary to enable him to carry the Bill, always bearing in mind that it has been, and still is, His Majesty's object to avoid any permanent increase to the peerage, and therefore that this addition to the House of Peers, should it unfortunately become necessary, shall comprehend as large a proportion of the eldest sons of peers and collateral heirs of childless peers as can possibly be brought forward.—WILLIAM R."

At the same time the King sent to the Duke of Wellington, through Sir H. Taylor, his private secretary, a significant hint that the game was up. He wrote on May 17th:—

"MY DEAR LORD DUKE,—I have received the King's commands to acquaint your Grace that all difficulties and obstacles to the arrangement in progress will be removed by a declaration in the House of Lords this day, from a sufficient number of peers, that, in consequence of the present state of things, they have come to the resolution of dropping their further opposition to the Reform Bill, so that it may pass, as nearly as possible, in its present form.

"Should your Grace agree to this, as he hopes you will, His Majesty requests you will communicate on the subject with Lord Lyndhurst, Lord Ellenborough, and any other peers who may be disposed to concur with you.—I have, &c.

"H. TAYLOR."

The Tory peers took the hint; the Bill, which had never technically lapsed, was taken up, and passed through Committee, about one hundred of the peers absenting themselves from the House.

The Royal Assent was given on June 7, 1832. The Duke of Wellington declared as the Bill passed its third reading in the Lords:—

"Reform, my Lords, has triumphed, the barriers of the Constitution are broken down, the waters of destruction have burst the gates of the temple, and the tempest begins to howl. Who can say where its course should stop? Who can stay its speed?"

The sixty-four years which have passed since then have not justified the dismal forebodings of the Duke. "Speed" is about the last word that rises to the mind of the historian who is engaged in chronicling the pace of a Reform Movement which after threescore years has left the power of the Peers still intact.

Such is the story of the remarkable crisis which inaugurated the era of democratic government in Great Britain. It was the supreme object-lesson, which has never been forgotten, as to the methods that had to be employed to overcome the resistance of the Lords to any measure of popular reform. The country must be thrown into a ferment, social order must be endangered, and the nation must be brought to the verge of civil war. Then, when political passion is culminating in revolutionary violence, the Sovereign can paralyse this resistance of the Peers by the threat to create as many peers as may be needed to convert the minority into a majority. But the pot must be almost boiling over before Majesty will consent to damp down the fire.

Lord John Russell frankly avowed his regret that the Peers had not stood to their guns instead of capitulating as they did. He said :—

"Whether twelve or one hundred be the number requisite to enable the Peers to give their votes in conformity with public opinion, it seems to me that the House of Lords, sympathising with the people at large, and acting in concurrence with the enlightened state of the prevailing wish, represents far better the dignity of the House, and its share in legislation, than a majority got together by the long supremacy of one party in the State, eager to show its ill-will by rejecting Bills of small importance, but afraid to appear, and skulking in clubs and country houses, in face of a measure which has attracted the ardent sympathy of public opinion."

On the other hand, some of Lord John's colleagues considered it a merciful deliverance that they had not been compelled to create new peers for whose future political good conduct no one could have answered.

The lesson which the nation learned from the collapse of the opposition of the House of Lords to

the demands of the people was that they could extort anything they pleased from the Peers by violence and the threat of violence, but that unless they could evoke a quasi-revolutionary agitation the House of Lords would treat them with contempt.

Mr. Gladstone, in 1893, tried to inculcate a different doctrine. When the agitation against the Peers over the County Franchise Bill was at its height, he endeavoured to throw oil on the troubled waters, and arranged a compromise to avoid a collision between the two Houses. When the Peers threw out the Home Rule Bill, he was so far from having taken to heart the lesson of 1832, that he even deprecated "vehemence as quite unnecessary." The whole passage of this remarkable speech relating to this subject is as follows:—

"It is evident, when we put upon one side a constituency of 6,000,000 and the House of Commons chosen by the 6,000,000 to represent them, and on the other side a body of 500 gentlemen who, whatever their merits may be, are absolutely irresponsible, are not the people, are not the representatives of the people, have no commissions from the people—it is quite evident that in these great issues, where the people have clearly and definitely spoken after long consideration and discussion, in these great issues nothing but the utmost discretion can permanently preserve the House of Lords in the possession of a right such as that. It is that discretion which we contend has on this occasion been entirely and absolutely wanting. How are we to face the situation? Of course, not by a dream of illegality in any form. Nay, more, while we abhor violence, in such a case as this I would even dissuade vehemence, which is quite unnecessary. What we want is determination—calm, solid, quiet, but fixed determination."[1]

To this it is sufficient to remark that if the Reformers of 1832 had been so abhorrent of violence and had never dreamt of illegality, the House of Lords would have defied the nation, and the enfranchisement of the people would have been adjourned to the Greek Kalends. What carried the Reform Bill was not

[1] Edinburgh, September 27, 1893.

"calm, solid, quiet, but fixed determination," but resolute, turbulent, tumultuous demonstrations of a savage resolution to resort to revolutionary methods, of which the sack of Bristol and the burning of Nottingham Castle were but premonitory foretastes.

CHAPTER III

THEIR RECORD ON REFORM

THERE is something peculiarly offensive in the assumption of the House of Lords that they have a right to interfere in the methods by which the House of Commons is elected. Individual members of the House of Lords are expressly forbidden to interfere in the election of members of Parliament. But collectively the House of Lords has always asserted a right to interfere in the election of the House of Commons as a whole. It might reasonably be thought that the House of Commons, and the House of Commons alone, had a right to decide questions relating exclusively to the manner in which it was elected. The Commons do not interfere in the way in which the hereditary Legislature renews itself. That is left to the Peers themselves. But the House of Lords constantly interferes in the way by which the House of Commons renews itself. Whether it is in prescribing who shall be allowed to vote, or how they shall vote and in what constituencies, the House of Lords has repeatedly overruled the decisions of the House of Commons, although seldom, if ever, to any good purpose.

Last session afforded the latest illustration of this meddling usurpation on the part of the Peers. There were few questions upon which the whole Liberal party was so unanimously pledged by the constituencies as the abolition of plural voting. The watchword, "One man, one vote," had long ago been accepted by the

whole of the Liberals of the country without a single dissentient voice. An overwhelming majority of the House of Commons was elected to carry out, among other things, the abolition of the plural vote. In obedience to this pledge, the Government introduced and carried through the House of Commons a Bill which deprived the pluralists of all votes but one, leaving them the option to decide which of their many votes they desired to retain. This Bill, after an exhaustive debate in Committee, was read a third time by 333 to 104. But when it came before the House of Lords they threw it out after a two hours' debate by 143 to 43 on the second reading.

This was the latest instance, and not the least characteristic, of the insolence of the Peers in dealing with reforms exclusively relating to the Lower House.

In the last chapter the story has been told of the desperate tenacity with which the House of Lords attempted to deny the great body of the people the right to any voice in the election of their own representatives. They yielded to terrorism and the threat of the King to swamp them by the creation of sufficient peers to overcome their opposition. The Lords did not seriously mutilate the Reform Bill of 1832. Their fear was too great. They contrived, however, to save the freemen from political extinction. This change was reluctantly assented to by the Commons, but in other respects the Bill remained unaltered. The new constituencies, thus inoculated with corruption by the express action of the Lords, never rid themselves entirely of the taint. The evidence given before the Electoral Commissions even in recent times prove only too clearly how deep the canker has eaten into the system of popular representation. For that, as for many other similar blessings, we still "thank God for the House of Lords." Unable to prevent the people from electing their own representatives, the patrons of Gatton and Old Sarum avenged their defeat by tainting at its source the fountain of popular power.

It was not merely by insisting that the freemen should remain on the register that the House of Lords provided for the corruption of the new constituencies. When the reformed House of Commons was confronted with the evidence of the corrupt practices which prevailed at the first general election after the Reform Act, its efforts to extirpate corruption were frustrated by the deliberate and persistent refusal of the Lords to assent to the remedial measures sent up to them by the Commons. The most glaring cases of corruption reported after that general election were those of Warwick, Stafford, Hertford, and Carrickfergus. The House of Commons sent up Bills to the House of Lords disfranchising the corrupt boroughs. The House of Lords refused to accept the evidence taken by the Commons, and insisted upon hearing the witnesses at the bar of the House. As a result the corruption went unpunished. The House of Commons postponed the issue of the new writs; and even of this complaints were raised in the House of Lords that they were exceeding their rights. Although gross bribery was proved to have prevailed in the peccant boroughs, it was maintained that the House of Commons ought to issue the writs, in order to make its numbers complete. But that was not all.

In the fervour of its reforming zeal, the House of Commons sent up to the House of Lords a drastic Corrupt Practices Bill—not so drastic, it is true, as Sir Henry James's Draconian Bill, but a measure which, if passed in its entirety, would have done much to check corruption. The House of Lords consented to read it a second time on condition that it was referred to a Select Committee. By this Select Committee it was completely remodelled, so as to make it almost a new measure, said Lord John Russell. "The amendments which had been made by the Lords in this Bill," he said, "were of so extensive a character as almost to render it an entirely new measure." The provisions calculated to make it effective were struck out, and in their stead clauses were

inserted giving the Peers a right to appoint five of their number to sit with seven members of the House of Commons to try bribery cases, under the presidency of a judge. The claim of the Peers to interfere with the trial of election petitions directed against the seats of members of the House of Commons was naturally resented by the latter Assembly, and as it was too late in the session (August 7th) to consider what was practically a new Bill, the Commons regretfully sacrificed their Bill.

Two years later the House of Commons made another attempt to deal with one of the offending boroughs. Stafford was notoriously corrupt. In ten years it was proved that five elections had led to an expenditure of not less than £36,582 over a constituency of 1,270, of whom only 1,100 came to the poll. A corrupt expenditure averaging £3 per voter per annum had been kept up for ten years. Direct bribery and wholesale treating prevailed to a frightful extent, and the House of Commons determined to make an example of the borough. But they reckoned without the Peers. Lord Ashburton protested against the idea that a borough should be disfranchised for treating—"ordinary treating"—and the Bill was thrown out by 55 votes to 4.

Twelve years later the House of Commons made another attempt to get rid of the corruption which disgraced so many constituencies. It sent up, in 1848, a Bill to the House of Lords, which ordered a Special Commission to investigate corrupt practices in constituencies where a Committee of the House of Commons reported they prevailed. As it did not reach the Lords till the 24th of August, their lordships decided it was too late to consider it, although Parliament did not rise till September, and thus another attempt to deal with the evil fell through in the Upper Chamber. Next year the attempt was renewed. A Bribery Bill was passed through all its stages and sent up to the House of Lords in time to be read a first time on July 16th. A fortnight later the Peers threw it out on the motion for second reading, chiefly on account of

the "monstrous" proposition that when a man had been declared by the unanimous verdict of an Election Committee to have been guilty of bribery, he should be struck off the electoral list for the rest of his life, and another attempt on the part of the Commons to prevent corruption was thwarted in the House of Lords.

It is unnecessary to pursue this theme. Enough has been said to show that if corruption has eaten into our democratic institutions, the aristocratic branch of the Legislature is largely responsible for the failure of all the remedies devised for its extirpation. The rejection of Bribery Bills was only one method of manifesting their antipathy to cheap and pure elections. The proposal to limit the polls in counties to one day instead of two had to undergo in 1852 the ordeal of rejection by the Lords before it was passed into law.

Measures adding to the number of electors were almost always rejected. In 1837 a Bill enabling duly qualified electors to vote if they had paid up their rates to within six months of voting, instead of up to the time of voting, and another permitting electors to vote, although they had changed their residence between one registration and the other, were both rejected on the ground that they added to the numbers on the register. In 1838 the Lords proposed, by adding a new clause to a Bill sent up from below, to deprive those of the franchise who exercised it as trustees, but the Commons preferred to lose their Bill altogether rather than accept such an amendment. The tendency has always been in the same direction, and every recognition of the right to vote has been gained after successive prolonged struggles against the opposition of the House of Lords.

In 1867 the second Reform Act was passed without being first rejected by the Peers. The cause of this was the fact that a Reform Bill had already fallen through in the House of Commons, and the second Bill was introduced by a Conservative Government. But even the handiwork of Lord Derby and Mr. Disraeli could not escape the reactionary meddling of the Peers. They

doubled the copyhold qualification of voters in counties, stipulated that elections should be conducted by voting-papers, and created the three-cornered constituencies. The two former "amendments" were struck out in the Commons, but the last was permitted to remain.

Another illustration of the attitude of the House of Lords to questions of Parliamentary reform is supplied by their treatment of the Ballot Act. Although Mr. Berkeley succeeded in carrying his resolution in favour of the ballot nearly thirty years before, the subject did not come before the Peers until 1871. Smarting under the sense of defeat on the abolition of purchase in the army, the Lords threw out the Ballot Bill by 97 to 48. In 1872, although no additional reason had been advanced in its favour beyond the fact that there had been an autumnal agitation against the House of Lords, they read the Bill a second time by 88 votes to 58. In Committee, however, they rendered the Bill useless by making secret voting optional by 83 to 67. The opposition of the Commons led them to reconsider their position and annul their vote. The Bill ultimately became law without any further mutilation beyond an infringement of the secrecy of the ballot in the case of illiterate voters and the limitation of the Bill to a period of seven years. The same animus against secret voting showed itself the same year in the rejection outright of the proposal to elect School Boards by ballot. The majority, however, was small, and the vote a few years afterwards was annulled by the Lords at the demand of a Conservative Government.

The last great struggle between the Peers and the people took place in 1884 over the Extension of the Franchise. Mr. Gladstone's Bill, which was expected to add at least two million householders to the electorate, passed through the Commons with decisive majorities. But the Lords insisted that the measure should also include the provisions for the Redistribution of Seats which the Government proposed to embody in a subsequent Bill. In order to meet their objections, the Government gave them an outline of the principles

upon which they thought Redistribution should proceed, and they inserted a clause in the Bill providing that none of the newly enfranchised should vote before January 1, 1886, so as to guard against a dissolution before Redistribution. As the Peers were not satisfied with these safeguards, the Government made a further proposal to the effect that both Houses should unite in passing identical resolutions setting forth that they had passed the Franchise Bill in reliance on the pledges of Her Majesty's advisers to introduce the Redistribution Bill in the following year, and that these resolutions should be presented by a joint Address to the Crown, so as to make it absolutely certain that Redistribution should be taken in the next Session. This also was rejected, and the House of Lords on July 8th, by a majority of 205 to 146, refused to read the Bill a second time, although they passed a resolution expressly concurring in its principle.

Then ensued a great storm of popular indignation. Mr. Gladstone sacrificed all the other measures promised for the year and announced his intention to hold an Autumn Session to pass the Bill straightway through the Commons again. A large number of meetings were held throughout the country to protest against the action of the Peers, and a huge demonstration was held in Hyde Park. "Fifty years of the House of Lords" was widely circulated. The late John Bright said of it, "It presents a picture of class selfishness and obstinate resistance to what is liberal and just which would be astounding if we had not been so long accustomed to it."

Rival "demonstrations" in support of the Peers also took place. They were comparatively few and feeble, but they afforded Mr. Gladstone, who deprecated the raising of a great constitutional question, an opportunity which he eagerly embraced, of entering into an arrangement with the Opposition.

The deadlock was removed by a compromise. After the Autumn Session had begun, and the Franchise Bill had been carried through the Commons, the

Government undertook to submit a draft Redistribution Bill to the leaders of the Opposition, and to move the second reading of the latter Bill simultaneously with the passing of the Franchise Bill through Committee in the Lords. These terms were accepted, and the Franchise Bill became law on December 6th.

In dealing with these two last exhibitions of the House of Lords in action, it is difficult to say whether they excite more indignation or contempt. For both in 1867 and in 1884 the Peers made no secret of their detestation of the enfranchisement of the working classes. In both cases they would, had they not been terrorised into submission, have rejected the Bills outright. Up to the moment of their surrender they had proclaimed aloud that they regarded the enfranchisement of the masses as the ruin of the Constitution. But in 1867 Hyde Park railings had been torn down by the workmen of London who were clamouring for admission within the pale of the Constitution, and they yielded to the menace of force what they never would have yielded to reason. Disraeli tempted them to "dish the Whigs" by taking "a leap in the dark," and they fell. What their supporters felt found indignant expression in Coventry Patmore's savage lines declaring that—

> "In the year of the great crime,
> When the false English nobles and their Jew,
> By God demented, slew
> The Trust they stood there pledged to keep from wrong."

Nor was his scorn unjustified. Their leader hoisted the white flag, and almost without parley they betrayed what they described as the citadel of the Constitution into the hands of the democracy.

It was much the same in 1884. The Peers disliked the enfranchisement of the country householders as much as they disliked the enfranchisement of the householders of the towns. This time, a Conservative Government not being in office, they plucked up courage to cushion Reform by professing a burning desire to carry a Redistribution Bill at the same time as the

Franchise Bill. It was a mere cloak to cover their desire to defeat the Bill. They demanded that so great a measure of Constitutional reform should be submitted to the constituencies before it was passed into law. This brought upon them a memorable reproof from the Duke of Devonshire, then Lord Hartington.

"We are told that the House of Lords claims the power either to reject this Bill, to destroy this Bill, or to compel a dissolution. We do not admit that claim. It is a claim without precedent. . . . I am not afraid that the House of Lords will prevail in this contest.

"The contest between the House of Lords and the House of Commons is not an equal contest. The House of Commons, strong in its representative capacity, strong in the support of the great masses of the people, and strong in the undivided and indisputable control it possesses over the resources of the country, is more than a match for its opponents in the contest." [1]

This claim of the Peers to insist upon a dissolution before accepting the deliberate vote of the House of Commons as an expression of the national opinion has been raised again in even more preposterous terms. In 1884 the House of Commons was four years old. Mr. Gladstone's Government had been shaken by the Irish crisis. Bye-elections had gone against him; his majority had dwindled, and was dwindling monthly. In 1906 the House of Commons was fresh from the constituencies. The ranks of the Liberals were unbroken; their numerical strength, tested by the division lobbies, was more than double that of Mr. Gladstone in 1884; the bye-elections showed no ebb in the floodtide of Liberal enthusiasm. Yet their advocates insist that the Government must seek a fresh verdict from the constituencies before they can expect the submission of the Peers! Such a claim, when put forward in 1884, scandalised the constitutional soul of that stout Conservative, Sir William Anson, who, writing thirteen years later, said:—

[1] Chatsworth Park, August, 1884.

"In 1884 the House of Lords not only pushed to an extreme limit their legislative rights as against the House of Commons, but even encroached upon the royal prerogative in respect of the dissolution of Parliament. The question of dissolution arose from the mode in which the majority in the House of Lords identified their House with the interests of the Conservative party."[1]

The agitation against the House of Lords became so menacing that it scared the Emperors of Germany, Russia, and Austria into the Three Emperors' League to defend the monarchical principle against the expected triumph of Republicanism in England.[2] It seems strange to us that the Imperial sovereigns of Europe should have entertained such a dread. But John Bright was quite right in pointing out that the action of the House of Lords might endanger the monarchy. He said :—

"What would have become of the country if the Lords—the majority of the Lords—had ruled unchecked for the last fifty years? By this time the country would have been enslaved or ruined, or a revolution would have swept them away. It might possibly have swept away even the venerable monarchy itself."[3]

There was a good deal of plain talking in those days by Liberal leaders, especially by Mr. Chamberlain. If Mr. Bright, then his colleague in the representation of Birmingham, could say—

"Unless English freedom be a fraud and a sham, the English people will know how to deal with a titled and hereditary chamber whose arrogance and class-selfishness have long been at war with the highest interests of this nation,"[4]

Mr. Chamberlain capped his most vigorous invectives. Here, for instance, are three samples of the rhetoric of Mr. Chamberlain when he was on the war-path against the House of Lords in 1884 :—

[1] "Reign of Queen Victoria," p. 134.
[2] See Hohenlohe's Memoirs, Nov. 2, 1884.
[3] Birmingham, August 4, 1884.
[4] Manchester, July 26, 1884.

"During the last hundred years the House of Lords has never contributed one iota to popular liberties or popular freedom, or done anything to advance the common weal; and during that time it has protected every abuse and sheltered every privilege. It has denied justice and delayed reform. It is irresponsible without independence, obstinate without courage, arbitrary without judgment, and arrogant without knowledge."[1]

"We are in favour of government of the people by the people, and for the people, and we repudiate the presumptuous claim to usurp the prerogative of the Crown, to degrade the House of Commons, and humiliate all who bear the name or claim the rights of free men. We grudge the Lords nothing that rightly belongs to them, nothing they can enjoy without injury to others—their rank, their titles, their Stars and Garters, any influence which their personal qualities can gain them, any power that they may secure by long prescription and high station; but their claim to dictate the laws which we shall make, the way in which we govern ourselves—to spoil, delay, even reject, measures demanded by the popular voice, passed after due discussion by the majority of the people's House, and receiving the sanction and confirmation of popular Assemblies such as these—is a claim contrary to reason, opposed to justice, and which we will resist to the death."[2]

"Are the Lords to dictate to us, the people of England? Are the Lords to dictate to us the laws which we shall make, and the way in which we shall bring them in? Are you going to be governed by yourselves? Or will you submit to an oligarchy which is a mere accident of birth? Your ancestors resisted kings, and abated the horde of monarchs, and it is inconceivable that you should be so careless of your great heritage as to submit your liberties to this miserable minority of individuals who rest their claims upon privilege and upon accident. . . . In the meantime, what mischief has been wrought, what evils have been developed, that might have been stayed in their inceptions, what wrongs have been inflicted and endured that ought long ago to have been remedied! . . . But the cup is nearly full. The career of high-handed wrong is coming to an end. The House of Lords have alienated Ireland, they have oppressed the Dissenters. . . . We have been too long a peer-ridden nation, and I hope you will say to them that if they will not bow to the mandate of the people, that they shall lose for ever the authority they have so long abused."[3]

Mr. Gladstone, as we learn from Mr. Morley's book,

[1] Birmingham, August 4, 1884.
[2] Hanley, October 7, 1884.
[3] Denbigh, October 20, 1884.

was alarmed at the growing agitation. He did his best to damp it down. The Lords on their part intimated their readiness to accept an even more democratic Redistribution Bill than that which the Liberals had contemplated if they were but provided with a golden bridge to retreat from their dangerous position. To the no small indignation of the Radicals, Mr. Gladstone consented to provide that bridge. The Peers agreed to the enfranchisement of the county householders and to the introduction of single member constituencies, providing that their face was saved by an arrangement which would enable them to say that they had carried the technical point of dealing with both questions at once. Mr. Gladstone, who was always open to bargains of that sort, jumped at the offer, and the crisis was promptly ended. But words which Lord John Russell uttered in 1835 might have been used about the abandonment by the Peers in 1884 of their opposition to the enfranchisement of the county householder:—

"The same party which prompted and led this resistance have been opposed to every Liberal measure which has been proposed for the last seven years, and upon all the most important of these measures their resistance has ended in a confession that the struggle was hopeless, and that although darkness was still to be desired, light was no longer to be excluded."[1]

[1] "Life of Earl Russell," vol. i. p. 250; speech at Plymouth, 1835.

CHAPTER IV

LORDS AS LANDLORDS

WHAT is the House of Lords? Primarily it is a House of Landlords. The landed system of this country was created in order to make the Peers the owners of the soil and the lords of the land. It has done its work. According to Lord Derby's return of 1874–5, 525 peers own one-fourth of the land of England. The average area of each peer is about 38,000 acres.[1]

This is no natural growth. It has been artificially fostered for nearly nine hundred years. The landed system exists to maintain the House of Lords, and the *ultima ratio* of the House of Lords is to maintain the landed system. The House of Lords is a mere Tory caucus for all other purposes of legislation. But it will defeat even a Tory Government when it attempts to reform the landed system. To the Peers there is one thing only that is more sacred than the interests of the Tory party. That is its own interests in the land.

Of this the most recent illustration was afforded in the year 1889, when Lord Salisbury implored their lordships to pass his Land Bill.

"A measure which will conduce largely to the happiness of the people of this country, and largely also to the prosperity of the owners of land, which will remove one of the great causes

[1] Dukes, 142,564; Marquesses, 47,500; Earls, 30,217; Viscounts, 15,324; Barons, 14,152 acres. Arthur Arnold's "Lords as Landlords," p. 55.

of odium from our present landed system, and one that threatens its existence. We earnestly ask you not to take from us the power of carrying this beneficial reform into law, and not to place upon the House the ominous responsibility of standing between the people of England and this great advantage."

It was not a very drastic Bill. It provided for compulsory registration, for putting the title within five years on the register, and for the assimilation of real and personal estate by abolishing the law of primogeniture and entail. It was introduced in 1887, and withdrawn. It was reintroduced in 1888, and withdrawn again. In 1889 it was introduced a third time, and was thrown out by 123 votes to 113, on an amendment refusing to abolish primogeniture and entail. After that Lord Salisbury desisted from further efforts.

The Lords, therefore, stand accused, Lord Salisbury himself being witness, of standing between the people of England and a great advantage which would have contributed greatly to their happiness. It is an ominous responsibility. But they assumed it after full and impressive warning from the Tory Prime Minister, It is now full time that they were called to account.

It is written in the book of the prophecies of Isaiah, "Woe unto them that join house to house, that lay field to field, till there be no place, that they may be placed alone in the midst of the earth!" (ch. v. 8.)

The process upon which the Hebrew prophet placed the curse of the Almighty is that which our landed system has invented, and which it is maintained to facilitate and to encourage. It is now bearing its natural fruits in the depopulation of rural England. And it will go on bearing them until the House of Lords is destroyed.

The House of Lords and the land system are Siamese twins. The death of one entails the death of the other. Hence to get at the vitals of the hereditary legislature strike at the land!

There have been comparatively few collisions between Lords and Commons on the land question. The Commons have for the most part, down to quite

recent times, recognised that the landed system was so bound up with the House of Lords, that it was useless to attack it. In 1893, when a Liberal Government sent up a Bill for the abolition of the law of primogeniture, it was promptly rejected. A House which refused to listen to Lord Salisbury was not likely to hearken to any one else. Pleading for this Bill, Lord Herschell asked them: "In the case of a man with a very small amount of real property, dying and leaving children, the whole goes to the eldest son. Can it be seriously contended that the eldest son should have all, and the widow and the younger children should have nothing?" To which the permanent Tory majority promptly replied by their vote rejecting the Bill. Yea, verily, widows and younger sons are nothing to us! Are we not all men and the eldest sons of eldest sons? In 1896 the Peers mutilated the Irish Land Bill of the Conservative Government. The revolt did not last long. Although the matter concerned the land, the revolters soon came to heel, and the Bill passed as the Unionist Government framed it.

The estates of the Peers, which were originally of considerable size, being granted them in order that they might equip soldiers and maintain the King's authority in the land, have steadily grown under the influence of laws passed by the Peers for the aggrandisement of their order. Large estates are continually eating up smaller holdings. The process partially economic has been stimulated by the law. To maintain the landed interest was a settled principle of public policy. The House of Lords itself is a constant incentive to the laying of field to field. For the wealthy man anxious to force his way into that assembly naturally sets about the accumulation of landed property. By the operation of Enclosure Acts in the thirty years between 1844 and 1874, over five millions of acres were enclosed, the most of which went to swell the acreage of peers and expectant peers. At present it is estimated that four-fifths of the land of England is held by from 5,000 to 10,000 persons. Here,

then, is a gigantic trust in the hands of a syndicate of irresponsible individuals who have absolute control of one branch of the legislature. As legislators the Peers help themselves as landowners. As landowners they use their influence to help to maintain the authority of the Peers.

The operations of this gigantic trust controlling four-fifths of the land and one-half of the legislature affect all departments of national life. To quote Arthur Arnold :—

"Look at the railway system! If that system had not been unduly burdened by an amount exceeding £50,000,000 by the prejudice and power of the Lords, agriculture might have had less reason to complain of railway rates, and the industry of the country would have been spared a burden it must now sustain. The Peers were the tribunal in their own case. Take an example, in the matter of land only, as narrated by Dr. Smiles in his 'Lives of the Engineers.' When the London and Birmingham Railway Bill passed the Commons and went to the Lords, committees were open to all peers, and the promoters of the Bill found to their dismay many of the Lords who were avowed opponents of the measure as landowners sitting as judges to decide its fate. The Bill was thrown out. The promoters forthwith made arrangements for presenting the Bill in the next session. Strange to say, the Bill then passed almost without opposition. An instructive commentary in the way in which these noble lords had been conciliated was the simple fact that the estimate for land was nearly trebled, and that the owners were paid about £750,000 for what had been originally estimated at £250,000."[1]

This exaction of £500,000 may not have been bribery. It is more like blackmail. The Bosses of many an American city would turn green with envy at such a spectacle of successful "sandbagging." "Graft" to the tune of £500,000 looted under a single Bill is surely a record even in these modern days of civic larceny.

The story of how the landlords, aided and abetted by the House of Landlords, worked the legislature to advance them on loan money for drainage, the whole cost of which, and more in many cases, they charged upon

[1] Arthur Arnold's "Lords as Landlords," p. 65.

their tenants, can only be alluded to here. These things are the natural result of the exceptional position of the Lords in the legislature. "They were, I suppose," says one of their critics, "guided by the belief that a hereditary aristocracy is necessary for public welfare." How could they think otherwise? The whole social system in feudal England, nay, the military and judicial system also, was based upon the supposition that the Lord was the lynch pin of the universe. In process of time the Lord has lost most of his social, political, administrative and judicial functions. But in his legislative capacity he represents a survival from an earlier age, and he is not to be blamed if he should regard himself and his Order as the objects for the maintenance of which the world and all the things that are therein were created by a beneficent Providence, whose fundamental idea was the indispensability of the landed aristocracy. It is an archaic anachronism. The existence of the House of Lords naturally and inevitably creates this false perspective in the minds of its members. The supreme end, the preservation of their Order, justifies in their minds the use of any means, even, as we have seen in the case of the Trades Disputes Bill, what they declared to be the betrayal of liberty and the highest interests of the community. It is not their fault. It is inevitable that they should think and act as they do. The instinct of self-preservation is omnipotent.

The aggregation of land, by which huge estates tend ever to become huger, has been fostered by a landlord-ridden legislature. "Entails were intended for the preservation and aggrandisement of a great feudal aristocracy." Up to forty years ago it was recognised as an axiom of the policy of the governing families to preserve, as Lord Palmerston put it, "as far as possible the practice of hereditary succession to unbroken masses of landed property." This object, Mr. Fyffe informed the Committee on Small Holdings—

"Has been carried out by legislation both directly and indirectly. It has been carried out directly by the Law of Settlement, and indirectly by other measures, all having as their chief objects the

avoidance by the landowners of the necessity to sell. This object has been kept in view in the following among other instances. First, in the different taxation of real and personal property at death, as amended by Sir W. Harcourt in 1894; second, in the law of primogeniture in cases of intestacy; third, in the principle that everything attached to the land becomes the landlord's property; fourth, in advances made by State and for improvements; fifth, in the difference between the publicity given to bills of sale and the secrecy observed with regard to mortgages."

In dealing with other heads of the indictment against the House of Lords particular cases have been cited in which they opposed the will of the nation, and retarded progress by the rejection or mutilation of certain specified measures. With regard to the land, the indictment is based not upon particular instances; it rests upon the uniform consistent logical practice of the House of Lords since it came into being. Its monument is the land system, under which ten thousand persons own four-fifths of the soil of the country. A system which, as has been shown, Lord Salisbury regarded as being in its present unreformed state an obstacle to the happiness of the people of this country.

So long as the influence of the House of Lords was paramount to the legislature of the country, "the distinct object of legislation," as the Committee on Small Holdings reported in 1890, "was to prevent the dispersion of large estates." But it was then "agreed that a numerous and prosperous peasantry is a condition of national safety, and that the more general distribution of ownership of land in Great Britain would lead to the security of property and to the contentment of the population." But the same Committee reported that owing chiefly to the laws of settlement and entail and the law and practice relating to enclosures, there has been a considerable diminution both in small agricultural ownerships and tenancies, and they therefore recommended legislation to check this fatal shrinkage. The result was the Small Holdings Act of 1902. But the inveterate custom set up by the legislation of centuries was too strong to be arrested by that measure, the feebleness of which was like that of all similar

legislation—largely due to the fact that no statesman who desired to achieve any practical reform would venture to propose any scheme of land reform which he knew in advance would be rejected by the House of Lords. The report of the Departmental Committee on Small Holdings, presented at Christmas, 1906, reports the consequent failure of the Act, and recommends further legislation. There will be no land legislation worth the name until there is a sufficient agitation in the country to appeal to what Lord Kimberley once described as "the cowardly fears" of the Lords.

Any popular movement against the House of Lords, no matter how it may be initiated, will inevitably find itself compelled to take up the Land Question. Hence noble Lords who obeyed the Bishops in rejecting the Education Bill may find that they have given a powerful impetus to an attack upon the monopoly of land, which is the basis and secret of their power. "I freely own," Mr. Gladstone said in 1889, "that compulsory expropriation (of landowners) is a thing which is admissible and even sound in principle." The taxing power which is the exclusive monopoly of the Commons will probably be found to be sufficiently efficacious to bring the Lords to reason.

There are various schemes afoot, of which the taxation of land values may be mentioned as the most conspicuous, which will receive a great impetus from the action of the Peers. To the Land Nationalisation Society (432, West Strand), to the English Land Restoration League (376–7, Strand), to the Scottish Single Tax League (13, Dundas Street, Glasgow), and to the Garden City Association (77, Chancery Lane) the rejection of the Education Bill and the Plural Voting Bill means a sudden renewal of vitality. It will be well if the resultant agitation can be kept within the scope of the Ten Commandments. Captain Petavel, R.E., in his little book, "A Coming Revolution," expounds a scheme by which he thinks it is possible to combine the needed drastic agrarian reform with a due regard to the rights of the present owners. He would appoint a

commission of experts to calculate the probable increase of value on all the estates in the country. This commission, he thinks, would determine prospective values with the greatest possible accuracy and fairness. Government stock would be issued to owners for the market value of their land, less the capitalised value of its present rent, and other advantages. The owners would be allowed to draw their own rents, and to retain the ownership in every respect but in the right to increase these rents in future when any development of the country made their land more valuable. That right is what they would have sold. After receiving the Government stock they would be in exactly the position as regards improvements that a tenant is in now. By this method Captain Petavel thinks the unearned increment of the land can be secured for the people who dwell in it. He says:—

"When prospective values had been paid off and consequently no one gained by selling land for building purposes, compulsory powers would be necessary. Parks, gardens, &c., could always be respected, but the right of individuals to control large tracts of country which they do not use would have to be curtailed. The exercise of that right will always prevent the proper spacing of dwellings at moderate cost."[1]

This project may be mentioned as one of the most moderate of all those which are grouped together under the common head of Land Reform. It is referred to merely to illustrate the hopelessness of getting any measure of the kind accepted by the House of Lords. The House of Lords question is at bottom the land question, and land reformers of all shades who are in serious earnest will probably discover that it is sound policy to sink their differences and unite in a great combined attack upon the common enemy.

In this connection, and as illustrating the spirit in which the House of Lords deals with questions relating to land, may be noted their malignant opposition to the

[1] "A Coming Revolution," p. 77.

preservation of Commons. They mutilated the first Commons Preservation Act of 1866 by limiting it to commons round London. They rejected the second measure in 1872 on the ground that it was an invasion of the rights of property vested in the Lords of the Manor. In 1876, when a Tory House of Commons sent up a Commons Bill, the Lords struck out the clause providing for allotments and recreation grounds, and so "amended" the Bill that it was complained that "all protection against illegal enclosures was taken away." Two years before, they rejected a Bill giving labourers a legal right to rent charitable lands in allotments. In 1882 they amended the Charity Land Bill so as to make it practically useless to agricultural labourers. Five years later they threw out the Agricultural Labourers' Holdings (Scotland) Bill.

The Lords accepted the Agricultural Holdings Bill of the Government in 1906, timidly making some amendments with which the Commons disagreed; and they also accepted the Irish Town Tenants Bill, which grievously impaired the ancient oppressive "rights" of the landlords. It is an ill wind that blows nobody any good, and the Peers, having spent their strength in rejecting the Education Bill, deemed it safer not to risk any further exercise of their authority. They showed much less consideration for the rights of the tenants when in 1883 they mauled and mutilated Mr. Gladstone's Agricultural Holdings Bill. Three years later they "amended" in like fashion the Scottish Crofters Bill.

But these are only straws showing the direction of the current. The whole course of land legislation in England from the days of the Conqueror downwards has been legislation by the Lords, for the Lords, and through the Lords. And as it has been, so it will be so long as the House of Landlords is allowed to possess a veto upon all the decisions of the representatives of the people. In Mr. Morley's phrase, "It is not a Senate, it is a privileged interest."

CHAPTER V

THE LORDS AND LABOUR

SPEAKING of the House of Lords at Edinburgh in 1894, the late Lord Salisbury made a memorable confession. He said—

"We belong too much to one class, and the consequence is that with respect to a large number of questions we are all too much of one mind. Now that is a fact which appears to me to be injurious to the character of the House as a political assembly."

"Too much of one class," indeed! The House of Lords is the central citadel of class interest. Under no conceivable circumstances can any representative of the industrial classes cross the sacred portals of the Painted Chamber.

The House of Lords first showed its antagonism to the interests of labour very early in the session of 1906 by throwing out a small Bill passed almost unanimously through the House of Commons prohibiting the importation of alien labourers from abroad in the course of an industrial dispute. The Lords did not venture to throw it out on its merits. They invented the hollow pretext that they ought not to pass such a Bill demanded by the unanimous vote of the representatives of the people because it was not forsooth a Government measure! Any stick is good enough to beat a dog.

In thus thwarting the popular will and in rejecting a measure specially promoted by the Labour party, they

acted in entire accordance with their ancient hereditary and traditional practice. It might naturally be supposed that the peers who have boasted that they were "the hereditary tribunes of the poor," would, if only from their antipathy to landlords and manufacturers, have sedulously supported the cause of labour against the exactions of capital. Such, however, has not been the case. In 1842 they began their operations by mutilating the Mines Regulations Bill in the interests of the colliery owners. Lord Shaftesbury (then Lord Ashley) declared they had "invalidated the principle of the Bill, and rendered it inoperative." "I have never seen," he added, "such a display of selfishness and frigidity to any human sentiment." The safeguards provided against the excessive toil of young children in mines were weakened, and it was thirty years before the mining population was able fully to secure that protection for life and limb to which the Commons admitted they were entitled as far back as 1842. Eighteen years after this first interference of the Peers with the efficient regulation of mines, the House of Lords weakened the provisions inserted by the Commons in the Mines Regulation Bill of 1860, intended to secure the children of the mine the educational facilities enjoyed by the children of the factory. Twelve years more had to elapse before the Peers could be induced to pass an adequate measure for the education of the pit-boys.

The same grudging spirit was shown in 1880, when the Employers' Liability Bill was under discussion. The Lords limited its operation to two years instead of seven, and struck out, on the motion of Lord Brabourne, the clause which made employers responsible for the acts of those to whom they delegate their authority. The Commons restored the clause, but the rejected "Lords' amendments" remain on record as an illustration of the views of the Upper Chamber. The Lords also struck seamen out of the Bill and limited the amount of compensation to be paid.

In 1893 the Liberal Government brought in their Employers' Liability Bill.

This is what the Government Bill did :—

1. It made the crooked ways of the Act of 1880 straight ;

2. It abolished the doctrine of common employment ;

3. It extended the operation of the Act of 1880 to every one acting under a contract of service ;

4. It brought in sailors and firemen who had been shut out before, together with the workmen in Government works, and many other classes of workers ;

5. It made the contractor responsible for accidents in place of the sub-contractor, who had been used in the past to "contract" the contractor out of his liability ;

6. It swept away the regulation that notice of actions must be brought within six weeks of an accident ;

7. It made the employer responsible for injury done to health as well as to the life and limb of his employés ;

8. It abolished the limitation of three years' wages as the maximum that might be claimed under the Act, leaving it to the jury to give exactly what damages they pleased.

When that measure was passing through the Commons in November, 1893, Mr. McLaren moved an amendment allowing those firms and their workmen who had already made mutual arrangements for insurance, to "contract out" of the Bill, on a two-thirds ballot of the workmen being cast for this course. The amendment was defeated by 236 votes to 217.

Next month the Lords inserted an amendment, by 148 votes to 28, giving with specified safeguards the liberty of contracting out, not only to firms who had already made insurance arrangements with their workmen, but also to any firms who might make such arrangements hereafter.

This was struck out in December by the Commons by 213 to 157. In January it was reinserted by the Lords. In February the Commons struck it out once more, by 219 votes to 197, but carried only by a majority of 2, a concession postponing the enforcement of the measure in the case of existing insurance arrange-

ments for three years. The Lords rewarded this concession by insisting on their old amendment. The Commons refused to pass the Bill with this clause, and it was accordingly discharged.

The Trades Union Congress Parliamentary Committee and the London Trades Council issued a manifesto declaring that the Lords' amendments rendered the Bill "entirely worthless from the workers' point of view." The manifesto proceeded—

"We now appeal to you to say whether you will thus continue to allow the House of Lords to block the path of your industrial progress, as well as to render insecure yourselves and limbs when toiling from day to day to enrich them and the nation. If it is thus possible for the House of Lords to continue to thwart the voice of the constituencies and reject every measure except those which are in accord with its interests and sympathies, the time has come when the House of Commons should be dismissed as an effete and useless institution for representing the national will."[1]

There are some people who seem to think they have no reason to "thank God for the House of Lords."

When the ten years during which the Unionists were in power came to an end, the Liberals introduced a new and more drastic Employers' Liability Bill, officially described as The Workmen's Compensation Bill. This time the word was passed by Mr. Balfour that the Lords must not meddle with Labour Bills. The Peers, therefore, contented themselves with making two amendments in the first schedule. The first provided that workmen suffering from old age, physical infirmity, or incapacity might contract themselves out of the Act so far as to accept a reduced compensation. This was the reinstatement of the original proposal of the Government which the House had struck out at the instance of the Labour party. Here, possibly, the Lords might have done good if they had stood to their guns. But when the Commons rejected their amendment they submitted. The only

[1] "The Liberal Platform Historic Facts and Current Problems," pp. 348–9.

other amendment was that providing that either party might insist upon calling in a medical referee. As the Bill stood, he could only be called in when both parties consented. This amendment was also disagreed with, and again the Lords submitted.

In 1887 the Lords, although a Unionist Government was in power, struck out some of the clauses in the Government Bill which was framed to secure the safety of the miners. In the same year the Lords mutilated the Truck Acts Amendment Bill, excluding agricultural labourers from its protection. Even the Unionist majority in the Commons disagreed with the Lords' amendments, but in order to save the Bill they had to submit, and the Peers had their way. The Commons reluctantly assented, on account of the lateness of the session, to accept the "amendment."

In 1893 the Railway Servants' (Hours of Labour) Bill was mutilated by the Peers, who excluded shop and factory hands from the protection accorded by the measure.

One of the most useful functions of the House of Lords from a Conservative point of view is that of providing incoming Conservative Ministers with an ample array of measures ready to hand. The rejected Bills, or the expunged clauses of the Bills of Liberal Administrations, amply furnish forth the programme of their Conservative successors. The legalisation of picketing is only one case out of many.

In the legislation of Parliament of 1874, upon which the Conservative Government specially prided itself on account of its benevolence to the working man, many of its "reforms" were little else than the repeal of "Lords' amendments" in previous Parliaments. Notably was this the case in the great grievance of the Trade Unions in connection with the Criminal Law Amendment Act. The clause in that measure which the workmen most keenly resented—that making picketing a penal offence — was introduced by the Lords. Viscount (then Mr.) Cross and Lord Cranbrook (then Mr. Gathorne Hardy) argued strongly in favour of

the alteration ; but it was sanctioned not so much out of deference to their arguments as because of the hopelessness of securing the consent of the Lords to the Bill without the objectionable provision. The Act passed, and it immediately excited the keenest hostility among the working classes. The conviction of the gas stokers increased their antipathy to the Act, but all attempts to amend it failed owing to the crowded state of the order book. When the new Parliament met, a Royal Commission was appointed to inquire into the whole question ; and in 1875 Sir Richard Cross, with the assent of the Lords, repealed the Criminal Law Amendment Act, loudly congratulating the workmen upon the fact that at last there was a Government in power which would not hesitate to remove the grievances of which they complained. The fact that the Conservative Government had done little more than undo the mischief which the House of Lords with the hearty assent of the Conservatives in the Commons had done in the previous Parliament, was studiously kept out of sight, nor was it so much as once alluded to by Conservative candidates who paraded the repeal of the Criminal Law Amendment Act as one of the beneficent measures which the working classes owed to the Conservative Government.

The decision of the House of Lords sitting as the Supreme Court of Appeal in the Taff Vale case in 1901 startled every one by the discovery that the Trades Union Act of 1871 did not protect the funds of the unions from liability in case of strikes. The working classes insisted upon fresh legislation to restore them to the position which every one for thirty years had believed that they occupied. To meet this grievance the Liberal Government, in 1906, brought in the Trades Disputes Bill. As has been pointed out in a previous chapter, the leaders of the Peers, Lord Lansdowne and Lord Halsbury, hated the Bill, denounced it in the strongest terms, and then announced that they would not reject it because to fight the nation upon such a question might prove disastrous to themselves.

Lord Lansdowne's words were: "Let their Lordships, if they were to join issue, do so upon grounds which are as favourable as possible to themselves. In this case the ground would be unfavourable to the House." [1] Therefore, he said, although the Bill "conferred privileges upon the Trades Unions fraught with danger to the community, and likely to embitter industrial life," he would not vote against it. The Bill would inaugurate "a reign of licence," but the Lords must not throw it out. A pretty Second Chamber this!

Lord Halsbury said the Bill was contrary to the spirit of English liberty. It contained the most disgraceful section that had ever appeared in an English statute. As for Clause 4, "anything more outrageously unjust, anything more tyrannical, he could hardly conceive." It was "a Bill for the purpose of legalising tyranny." It was likely to produce commercial distress. It might be that it would drive justice from her seat. And then with a majority of the Peers longing to be allowed to reject this terrible measure, Lord Halsbury, like Lord Lansdowne, would not vote against it. And why? Frankly because they feared for their Order. Was ever the essential rottenness of a hereditary bulwark more nakedly confessed?

[1] December 4, 1906.

CHAPTER VI

THEIR RECORD ON EDUCATION

THE first serious attempt made by the (unreformed) House of Commons to provide for the education of the people of England was thwarted by the Lords. It was in 1807 that Whitbread introduced and passed through the House of Commons the first Education Bill that ever received the sanction of that assembly. It was a simple but comprehensive measure which enacted that there should be established an elementary school in every parish in the land, supported out of the rates, and controlled by the ratepayers. The Commons passed it, the House of Lords threw it out. And why did the House of Lords throw it out? Not because they hated education, but because they allowed themselves to be dominated by the Archbishop of Canterbury, who approached the question not from the point of view of the needs of the people, but from that of the interest of the Established Church. The Primate frankly declared that his objection to the measure rested upon his determination not to allow the control of the school to get out of the hand of the parson. The Bill, he said, "left little or no control to the minister of the parish." He believed that it would go far "to subvert the first principles of education in this country which had hitherto been, and he trusted would continue to be, under the control and auspices of the Establishment." He felt sure that their Lordships "would feel how dangerous it might be to innovate in such matters."

The Primate was justified in his confidence. Only three Bishops voted for a rate-aided public elementary school in every parish. Fifteen voted against it. The Bill was thrown out by a majority of the Peers. So ended the first attempt to pass an Education Bill providing school accommodation for all the people in the country. Thanks to that veto, it was sixty years before a similar measure was placed on the Statute Book. Two generations of English folk had lived and died without education because the Church and the Lords preferred they should have no schools rather than provide schools which were placed under the control of those who paid for them.

The Nonconformists in 1808 founded the British and Foreign School Society. The Church, three years later, followed their example. In 1833 the Reformed Parliament voted £20,000 a year in aid of national education. Twenty thousand pounds per annum! At that time the Dukes of Grafton, in recognition of the dishonour of a female ancestor of theirs who had been one of the harem of Charles II., had been drawing £11,946 per annum for 163 years. The sum allowed to the descendant of a single Royal bastard was more than half the education vote which the Reformed Parliament ventured to propose for all the schools of the country. It was fortunate that this was a money vote, otherwise it might have been vetoed by the Peers. It was not until 1839 that the Lords had an opportunity of having a say in the matter. In that year the grant was raised to £30,000, and its administration was placed in the hands of the Educational Committee of the Privy Council. The Roman Catholics were allowed to share in the grant. That was the beginning of a national system of education.

Lord Ashley, afterwards Lord Shaftesbury, who was as bad a politician as he was an admirable philanthropist, said :—

"It is my firm belief that this plan of national education is hostile to the Constitution, to the Church, and to revealed religion itself."

The Lords could not interfere with the money grant, but they would not allow even so small an advance towards national education without expressing their suspicion and distrust. The Archbishop of Canterbury proposed a series of resolutions condemning the scheme. They were embodied in an address to the Crown, praying that—

"Her Majesty will give directions that no steps shall be taken with respect to the establishment or foundation of any plan for the general education of the people, without giving to this House, as one branch of the legislature, the opportunity of fully considering a measure of such deep importance to the higher interests of the community."

The method of proceeding by a vote in supply instead of by a Bill was fiercely assailed by Lord Ashley on grounds which justify a regret that the whole question was ever otherwise handled. It would not have been impossible to have dealt with education so as to have made every educational question a financial one, and so have removed it from the meddling of the House of Lords. Lord Ashley, of course, was of the opposite opinion. He said:—

"It is above all a matter of astonishment and regret that the Bishops of the land, the parties most responsible for the good conduct and government of the people of this country as spirituals, should be denied the liberty to express their opinions on the tendency of the proposed system to promote the spiritual welfare of the Church. . . . Consider the evil nature of the precedent you are laying down by converting measures of unspeakable interest into mere money votes, abating thereby the reverence due to the subject matter, limiting the means and opportunities of consideration to the House of Commons and wholly excluding the House of Lords."[1]

Lord Ashley was beaten in the House of Commons. In the House of Lords the battle was renewed.

The Duke of Wellington gave his opinion in no

[1] "Life of Lord Shaftesbury," vol. i. p. 253.

uncertain terms. The opposition to the scheme was based upon a demand that public money ought in no way to be diverted from schools in connection with the Established Church. He wrote to Lord Ashley :—

"Money ought not to be levied upon the subject or granted by Parliament for the purpose of educating the people in popery, in the tenets of the Unitarians, in those of the Anabaptists, in those of any sect not in communion with the Church of England; or at all excepting in the tenets of the Church of England."[1]

The Bishop of London protested against the National Council for Education on the ground that "the State, having delegated its functions to the Church as far as the religious education is concerned, is not competent to resume them." The old Tory note of hostility to the education of the working classes was voiced by the Bishop of Exeter, who—

"speaking of the poorer classes, saw very little need of secular education that ought not to be combined with religion. Looking to the poor as a class they could not expect that those who were assigned by Providence to the laborious occupations of life should be able largely to cultivate their intellects."

When the division was taken 229 peers, including 15 bishops, voted with the Archbishop, and 118, including three bishops, with the Government.

The Queen replied drily that the reports of the way in which the money was expended year by year would be laid before Parliament. But peace was eventually made between Lord John and the Bishops by an arrangement by which the reports of inspectors of schools were to be sent to the Bishops as well as to the Committee of the Privy Council.

For the defeat of Sir James Graham's attempt to extend the national system of education in 1843 the Lords were not responsible, neither can they be charged with the responsibility of defeating Lord John Russell's Education Bill of 1856. It was not until 1870, when

[1] "Life of Lord Shaftesbury," vol. i. p. 25.

Mr. Forster introduced the Education Bill which created the School Boards, that the Lords had an opportunity of displaying their hostility to popular education. They confined themselves to two amendments. The first struck out the clause permitting School Boards in certain circumstances to establish free schools. This the Lords struck out apparently under the influence of the two-fold motive to limit the powers of the Boards and to prevent the establishment of free education. Fortunately when the Bill went back to the Commons this Lords' "amendment" was disagreed with and struck out. The Lords fared better with their second amendment. By an unanimous vote they struck out the clause providing that the ballot should be used in School Board elections. The Commons did not insist upon restoring the clause, but secured their object by the Ballot Act. On the whole it is marvellous in view of their subsequent performances that the House of Lords allowed Mr. Forster's Bill to pass with so little mutilation.

It is well to be reminded of the fact that the Lords were practically shut out from any effective share in the development of the national education from 1839 to 1859. During that period the Education Grant had risen from £30,000 to £836,000 per annum.

"'It is remarkable,' says Mr. Spencer Walpole, 'that this rapid growth of expenditure was the effect not of legislation but of departmental minutes. Even the introduction of the Capitation Grant in 1853 and its extension in 1856 were effected without legislation.' Sir H. Craik says, 'The legislature at the most acquiesced in the minutes: it did not deliberately ratify them.' But it should be recollected that the expenditure was directly sanctioned by the House of Commons in votes of supply and by both Houses in the Appropriation Act." [1]

In 1862 Lord Derby claimed and Lord Granville conceded that both Houses should have the right to discuss the new Code, and discussed it was accordingly both by Lords and Commons. But with that exception,

[1] "History of Twenty-five Years," vol. ii. p. 505.

the Commons kept the control of national education entirely in their own hands until 1870, when Mr. Forster's Education Bill necessitated an appeal to the House of Lords.

Ten years after Mr. Forster's Act was placed on the Statute Book, the Lords passed a resolution by 98 to 50 striking out from the Code the schedule sanctioning the teaching of elementary science. Four bishops voted against science and three for it.

Eleven years later the Conservative Government brought in a Bill abolishing the payment of fees in elementary schools. It was passed by the House of Lords. The House always passes the measures of a Conservative Government, excepting when they touch the land.

It was, however, not until 1897, when the Voluntary Schools Bill was under discussion, that Lord Halsbury, who was then Lord Chancellor, laid down the doctrine that as the Bill made a condition to the grant of money it came within the scope of the Protest of 1678, and therefore could not be amended by the Lords. This ruling was made in order to expedite the passage of a Bill granting £500,000 to the Voluntary schools. The Lord Chancellor said that it would be hardly respectful to the House to discuss matters "and come to a decision to which their lordships could give no practical effect because if the amendment were passed it would, as a privileged amendment, have to be again struck out from the Bill."

Lord Herschell, in the debate that followed, said that the first amendment was—

"a direction to the Education Department, but the question was whether this came within the principle, and affected the people who were to receive the grant, which grant was not made specifically to any school or schools but left to be distributed by the Education Department. . . . If the House was precluded from discussing from an educational point of view what was to be the distribution of the money for education with a view to educational efficiency, then it seemed to him the House was deprived of the means of dealing with one of the most important questions ever brought before Parliament."

The Earl of Camperdown said that "if the House were precluded from discussing any conditions which appeared in a Bill making a grant of public money out of the Exchequer, then their lordships would have no power to modify the words of any clause in Committee on such a Bill." Lord Coleridge asked if the second amendment, defining "efficiency," were in order, and the Lord Chancellor at once replied, "It adds a condition to the grant of money, which is within the express language of the protest of the House of Commons." So with an amendment standing in the name of the late Lord Kimberley, "I think," said Lord Halsbury, "it comes within 'management.' The language of the protest includes the management, and I think that this touches the management." The Liberal peers appeared to object to Lord Halsbury's ruling, not so Sir H. H. Fowler, who promptly pointed out (*Times*, April 6, 1897) that this was an unprecedented and complete acknowledgment of the privileges of the House of Commons.

"The Lord Chancellor appeared to be of opinion that because the Bill proposed grants in aid of Voluntary schools it became what is technically called a 'Money Bill,' and he laid down the doctrine that it was the undoubted and sole right of the House of Commons to attach conditions, limitations, and qualifications to such grants, and 'that such conditions, limitations, qualifications could only be altered in the House of Commons.'

"It is not for the Liberals to complain of this unqualified recognition of the sole prerogative of the House of Commons with respect to all measures which involve any grant of public money."

It is to be regretted that these admissions of 1897 were forgotten until the close of the debates of 1906.

In 1902, the Unionist party having obtained a majority by appealing to the country in the midst of the South African war, on the pretext that Imperial interests entitled them to appeal to the electors for a renewal of their confidence irrespective of their views on questions of domestic policy, were no sooner firmly reseated in the saddle than they insisted upon reopening

the great settlement of 1870. They had no mandate from the country. The subject had never been submitted to the constituencies. If ever there was an occasion in which, if the House of Lords had really been an impartial umpire, charged to see that no legislation was carried upon which the mind of the country had not been clearly made known, that occasion arrived in 1902, when Mr. Balfour's Bill, abolishing School Boards, and putting the denominational schools on the rates, was sent up from the House of Commons. But true to their invariable rule, whenever a Conservative Government is in office, the House of Lords refused, by 147 to 37, to defer the consideration of the Bill till the country had been consulted.

It was a long succession of similar instances which led Lord Rosebery to exclaim in 1894:—

"What I complain of in the House of Lords is that during the tenure of one Government it is a Second Chamber of an inexorable kind, but while another Government is in it is no Second Chamber at all. . . . Therefore the result, the effect of the House of Lords as it at present stands, is this, that in one case it acts as a court of appeal, and a packed court of appeal, against the Liberal Party, while in the other case, the case of a Conservative Government, it acts not as a Second Chamber at all. In the one case we have the two chambers under a Liberal Government; under a Conservative Government we have a single chamber."[1]

When the Bill got into Committee the Lords set to work to "amend" the Bill by making it more denominational than ever. The following summary of the divisions in Committee, taken from Mr. Joseph Clayton's "Bishops as Legislators," indicates the general drift of their Lordships' amendments:—

THE EDUCATION ACT OF 1902.

In 1902 the Lords passed the *Education Bill* by 147 to 37 votes. Fourteen Bishops voted for the Bill, one (Hereford) against.

[1] Edinburgh, March 17, 1894.

An amendment to this Bill by Lord Beauchamp to compel local education authorities to undertake *Secondary Education* was lost by 174 to 33 votes. Three Bishops voted for the amendment, twelve against.

An amendment by Lord Halifax to allow *denominational teaching in secondary schools and colleges* was carried by 107 to 14 votes. Sixteen Bishops voted for the amendment, none against.

An amendment by Lord Beauchamp for a "*Conscience Clause*" *in all training colleges* was lost by 121 to 19 votes. Fourteen Bishops voted against the amendment, none for.

An amendment by the Bishop of Hereford in favour of *two instead of four foundation managers for non-provided* (*voluntary*) *schools* was lost by 158 to 27 votes. Seventeen Bishops voted against the amendment, one for.

An amendment by the Bishop of Manchester making *the local authority* (and not the religious body) *responsible for the "wear and tear"* of *voluntary schools* was carried by 114 to 88 votes. Eighteen Bishops voted for the amendment, none against.

An amendment by the Bishop of Hereford to *allow education authorities to appoint all teachers "without reference to religious creed or denomination"* was lost by 167 to 27 votes. Thirteen Bishops voted against the amendment, one for.

An amendment by Lord Shaftesbury to *confine the control of the religious teaching to the foundation managers* (*excluding the appointed managers*) was lost by 87 to 28 votes. Three Bishops voted for the amendment, eleven against.

An amendment by Lord Halifax to make the *Bishop of the diocese the deciding authority in any question concerning the religious instruction in the Church of England schools* was lost by 157 to 20 votes. One Bishop (Norwich) supported the amendment, thirteen against.

An amendment by the Duke of Northumberland to *prevent school managers from excluding parochial clergymen from Church schools* was lost by 96 to 65 votes. Seventeen Bishops supported the amendment, one (Manchester) against.

An amendment by Lord Burghclere that local education authorities should permit *political meetings in schools* outside school hours was lost by 77 to 23 votes. Two Bishops voted for the amendment, five against.

An amendment by Lord Lytton to allow denominational teaching to be given without charge in all schools, outside ordinary school hours, at the request of parents, was lost by 74 to 68 votes. Fourteen Bishops voted for the amendment, one (Hereford) against.

An amendment by Lord Camperdown to allow local education authorities to appeal to the Board of Education for the *closing of schools held to be unnecessary* was lost by 108 to 22 votes. Twelve Bishops voted against the amendment, one (Hereford) for.

Of these amendments the Bishop of Manchester's Wear and Tear clause was obviously a breach of privilege. It was a violation of the constitutional law of the country and a departure from the constitutional practice of the House of Lords, which, as Lord Davey truly said, "has not been to interfere with either the amount, extent, or incidence of the rates which such a Bill enabled a local authority to raise." But the House of Commons under Mr. Balfour was a very indifferent guardian of the rights and privileges which had been won by its predecessors. The opportunity of helping their clerical allies to a further raid upon the rates outweighed all other considerations.

The way in which this was done deserves special mention. As the Bishop of Manchester's amendment was admittedly a breach of privilege, the Duke of Norfolk, with the consent of the Duke of Devonshire, added to the clause after the Bill had been read a third time the following words: "*But this obligation on the local education authority shall throw no additional charge on any public funds.*"

As the whole object of the clause was to impose upon the local education authority the duty of meeting the cost of wear and tear out of the rates, this addendum was an absurdity. It was equivalent to telling a man he had to pay a bill and in the same breath saying that that obligation entailed no obligation to part with any money.

So monstrously ridiculous was the clause as amended that the officials of the House of Lords marked the words in italics as "proposed to be omitted by the House of Commons."

When the amended clause came before the House Sir James Ferguson proposed to omit the italicised words. The motion was carried by 200 to 104. Thus another inroad upon the privileges of the Commons was made with impunity.

It is worth noting that even so unimpeachable a Conservative authority as Sir William Anson has recorded with anxiety the constant tendency of the Lords to

trespass upon the domain marked out as the exclusive monopoly of the Commons. Writing in 1887 upon constitutional developments in the reign of Queen Victoria, after having spoken of the Lords as having very decidedly extended their functions by their action on the paper duties, Sir William Anson went on to say:—

"But it is not only in this matter of the paper duties, nor so long ago as 1861, that the Lords have trespassed on the forbidden ground of finance. Speaking of modern infringements on the exclusive right of the Ministers of the Crown to propose grants of money, and writing in 1877, Mr. Gladstone says: 'The House of Lords has done very great mischief in this respect by voting into Bills the establishment of officers and appointment of salaries, and sending these Bills with all such portions printed in italics, a conventional expedient adopted in order to show that they are not presented as parts of the Bill, but only as indications of the view or wish of the House of Lords: in matters, however, in which they have, as a body, no more right or title to any view or wish at all than the House of Commons has or had to send by any subterfuge to the Lords a direction as to judgments to be given in appeals.'"

Obsta principiis is a good maxim, but one of which the House of Commons has been unmindful—with the natural and inevitable result. One unresented encroachment paves the way for another, and unless there is a prompt awakening the House of Commons will discover that its exclusive right to deal with financial questions has vanished into thin air.

The action of the House of Lords in relation to secondary education has been similar to their dealings with elementary schools. The Endowed Schools Commission was appointed in order to secure the utilisation of educational endowments amounting to nearly £600,000 per annum; that is a sum equal to 3 per cent. interest on £20,000,000. The Commission was appointed to prepare schemes for the reconstruction of trusts that had been abused for the restoration of the moneys of the pious founders to educational purposes

[1] "Reign of Queen Victoria," p. 132.

in accord with the necessities of the altered times. It was a Commission on which no Nonconformist had a seat. Its inspectors were all Churchmen. But its schemes were mercilessly maltreated by Lord Salisbury, who had the House of Lords at his back. Some of the best schemes for the reform of our great educational foundations for middle-class educations were rejected by the Lords. When the Endowed Schools Bill was introduced in 1873, the Lords cut down its duration from four years to one, and so paved the way for the transfer of its powers in 1874 to the Charity Commission. The governing principle of the Lords in dealing with all these questions is to look after the interests of the Church and let the school look after itself. In 1893 the Bishop of Chester carried an Address to the Queen praying her not to sanction the charter for the University of Wales unless the Anglican Lampeter College was included in the University. In the same year he carried his Address to the Crown objecting to the intermediate and technical education schemes drawn up by the Charity Commissioners for Cardiganshire and Merionethshire.

"The effect of this action on his part was," says Mr. Claydon, "to prevent in the counties named the carrying out of a plan for taking scholars, from elementary or intermediate schools, for giving bursaries to poor scholars, and for taking successful scholars from intermediate schools to university colleges." [1]

The extent to which the House of Lords has forgotten the modest *rôle* which it was formerly content to play has been most notably illustrated of late by the manner in which it dealt with the Education Bill of 1906.

The Education Act of 1902 transferred the control of the educational system of the country to the municipal and county authorities. For this change much is to be said. Mr. Birrell thus described one of its results :—

"The Bill of 1902 transferred, wisely or foolishly, from School Boards the vast duty, the enormous responsibility, of providing

[1] "Bishops as Legislators," pp. 62–3.

for the primary education of their district, and for co-ordinating secondary education so that both should go together, to county councils, city councils, and municipal councils. From that great alteration enormous consequences have followed, which perhaps nobody except those whose misfortune it is to spend their days in the Board of Education have had an opportunity of fully realising. These bodies measure their importance by the greatness of their responsibilities. In all those thickly populated districts, those places where the mind of England is made up, those bodies have become infected with a lofty ambition. They are determined to municipalise education from top to bottom; they are determined to get whole and complete control over all the machinery of education, from the infant class to the University. They are determined to be masters in their own schools."[1]

If the Act of 1902 had only done this, there would have been no agitation against it, although the administrative difficulties that arose in working it would sooner or later have compelled the passing of an amending Act. But the primary purpose of the Act was not educational. It was passed in order to put the denominational schools upon the rates:—

"For the first time the teachers in denominational schools were wholly paid out of public funds, though they have to submit to a religious test in order to obtain what is now to all intents and purposes a post in the Civil Service. Except for the provision of the building, denominational schools are to be wholly maintained at the public expense, whilst left under preponderatingly denominational management."

Against these provisions of the Act the Nonconformists rose in revolt. Thousands became passive resisters, refusing to pay the proportion of the rate that was devoted to the teaching of denominational religion. Eighty thousand summons were issued to enforce payment, property was seized and sold by auction, and 318 public-spirited citizens who had no visible property upon which to levy restraint were sent to prison as ordinary criminal convicts. They took joyfully the spoiling of their goods, and the spectacle of their self-

[1] December 10, 1906.

sacrifice fired the zeal of their co-religionists to such an extent that a Conservative Nonconformist could hardly be discovered with a microscope. Among all the causes which contributed to the Liberal victory the Nonconformist revolt stood first, and in natural sequence an Education Bill occupied first place in the programme of the session. At the General Election 360 Liberal members were elected in England and Wales by a plurality of 504,814 votes over 126 Unionists. Every one of these Liberal members was pledged to vote for a Bill amending the Act of 1902 in such a way as (1) to secure public control for all public schools maintained at the public expense, and (2) to abolish tests for teachers. The justice of this latter claim was emphatically recognised by Mr. Chamberlain, who declared that teachers ought to be as free from theological tests as postmen or any other civil servants. The Bill was, as the Premier said, packed full of concessions to the Denominationalists before it was brought into the House of Commons. These concessions were still further increased on its passage through Committee. The House of Commons spent 49 parliamentary days on the Bill, which was read a first time without a division, a second time by 410 votes to 204, and a third time by 369 votes to 177.

It went up to the House of Lords, where it was read a second time without a division, and then turned inside out in Committee. What was virtually a new Bill in spirit and in substance was sent back to the House of Commons. In this new Bill, according to the terse statement of the Prime Minister—

"The demand was solemnly avowed that in the hitherto denominational schools, the non-provided and the transferred schools, according to the nomenclature of this legislation, specific sectarian religious teaching should continue to be given by all the teachers, if willing, in every school, large or small, in town and country alike, irrespective of the assent of the local authority. That is a plain description of the demand. Now what is this but the perpetuation and extension and consolidation of the very system which our Bill was designed on the whole to put an end to? And these demands are not more persuasively commended to us by the fact that this new, aggravated, and consolidated denominationalism is to be accompanied by rent paid by the

State for the use of the schools which it is obliged to support. The same teachers are to teach the same things to the same little children in the same schools, whether the local authority like it or not, and the public purse is to provide a rent for the schools which they now enjoy rent free. Sir, I say that is enough."[1]

The House of Commons sent the Bill back to the House of Lords by a majority of 416 to 107, rejecting all amendments *en bloc*, while intimating at the same time what further concessions they were willing to make. These concessions satisfied the Irish Catholics,[2] they satisfied the Duke of Devonshire, they appear even to have gone far to satisfy the Archbishop of Canterbury. They did not satisfy Mr. Balfour, who used the Lords as his cat's-paw to wreck the Bill. They horrified the Nonconformists, whose revolt had necessitated the legislation, but there was a general disposition to concede almost everything to avoid the loss of the Bill. But "the material and generous concessions" were made in vain. The Lords adhered to their amendments by a majority of 132 to 52. The Duke of Devonshire carried four Unionist peers with him into the Government lobby, in which was also found one solitary bishop.

[1] December 20, 1906.

[2] Mr. Redmond, in the House of Commons on December 20th, speaking of the concessions offered by the Government to the House of Lords for the sake of compromise, said: "Under those amendments, if the Bill had passed into law, the bulk of the Catholic schools would have remained Catholic schools in their atmosphere. In these circumstances, he and his colleagues, who opposed the second and the third readings, had to consider whether, on the production of the latest amendments of the Government, which gave them substantially all they had been asking for, they should facilitate a compromise and the passage of the Bill, or whether they should join with the leader of the Opposition and the House of Lords in wrecking the measure. It was not without the very gravest deliberation and consideration, and not without consultation with those who were best entitled to speak on behalf of the Catholic body in this country, that they came to the conclusion that, in the interests of the Catholic schools, it would be unwise for the Catholic representatives in that House to make themselves in any degree responsible for the wrecking of a measure which had, to put it at the lowest, been made tolerable to the Catholics of the country."

After this there was nothing to be done but to abandon the Bill, which was done with the usual ceremony.

By thus wrecking the Bill, to which the greater part of the first session of the Parliament had been devoted, the House of Lords has not only wrecked the work of the Commons and postponed the redress of admitted grievances, they deprived the children of the nation of benefits which were secured them by the Bill. The Education Bill is often spoken of as if it were nothing but an attempt to redress the wrongs of the Chapel at the expense of the Church. But it contained provisions for the blind and deaf, for vacation schools and recreation, for medical examination and inspection, and for enabling intelligent children to have an opportunity of passing into higher grade schools. Mr. Birrell, in pronouncing the funeral oration over his Bill, said :—

"Reference has also been made to the medical inspection clause, which passed with general consent in this House, and gave great hopes, not only to those who are scientifically interested in the subject, but to all who believe in the manhood of our race, as being the one thing to preserve and the only real hope for the future. I also derived great pleasure from the thought that this Bill would have done something to organise the playgrounds of our children, to give to the children of the poor what perhaps is almost the best education they anywhere can get, that of acting in manly and friendly co-operation one with the other. Well, all these hopes are for the moment banished, and we have lost our labour."[1]

The children of the poor, it would seem, have scant reason to "thank God for the House of Lords."

This chapter cannot be more appropriately closed than by quoting the peroration of Sir Henry Campbell-Bannerman's brief speech announcing the fate of the Bill :—

"It is plainly intolerable, sir, that a Second Chamber should, while one party in the State is in power, be its willing servant ('Slave,' 'Hear, hear'), and when that party has received an unmistakable and emphatic condemnation by the country, the House

[1] December 20, 1906.

of Lords should then be able to neutralise, thwart, and distort the policy which the electors have approved. (Loud cheers.) That is the state of things that for the moment—for the nonce—we must submit to. A settlement of this grave question of education has been prevented, and for that calamity we know, and the country knows, upon whom the responsibility lies. (Cheers.) But, sir, the resources of the British Constitution are not wholly exhausted—(cheers)—the resources of the House of Commons are not exhausted—(cheers)—and I say with conviction that a way must be found, a way will be found, by which the will of the people expressed through their elected representatives in this House will be made to prevail. (Loud cheers.)" [1]

The Issues between Lords and Commons on the Education Bill.

The precise points at issue between Lords and Commons which led to the wrecking of that measure are too numerous to be stated in the text. But as they are certain to figure prominently in the controversy over the action of the peers, the following extracts from the speeches of Mr. Birrell and Lord Crewe may be handy for reference for those who desire to know the objections taken by the Commons to the Lords' amendments and the concessions offered—in vain—by the Government to the peers.

From Mr. Birrell's speech December 10, 1906 :—

I. His General Objection.

"The amendments made in another place are of so extensive a character, so formidable, so penetrating, so permeating, so cumulative that, though the House of Lords thought it wise to read our measure a second time, they none the less, and notwithstanding that important step, felt themselves at perfect liberty to make such alterations as constitute the Bill sent back to us not our Bill, but an alternative solution of their own.

"Public Control.

"But these amendments of the Lords, almost every one of them, cut down popular control, restrict popular control, and put

[1] December 20, 1906.

the Board of Education again and again over the heads of these great elected authorities, and in many material respects most seriously interfere with their discretion and their freedom of action, and does so, mind you, as they will say, not in the interest of education as a whole, but in the interests of denominational schools.

"CLAUSE 1.

"Clause 1 passed this House without any amendment or alteration. In the other House it is substantially amended by the addition of words so that a school is not to be recognised as a public elementary school unless some portion of the school hours of every day is set apart for the purpose of religious instruction. The words inserted by the Lords are a direct repeal of section 97 of the Act of 1870, a section which is supposed to prevent any differentiation between any one kind of school and another. It expressly makes it clear that no local authority, no School Board, is to be required to provide religious instruction as part of its duty. I am justified in instancing this first amendment as a considerable and important departure from the principle of popular control.

"CLAUSE 2.

"I come now to Clause 2, when I was asked to meet the case of privately owned schools, not more than 1,100 or 1,200 over the whole country, by inserting a few words which would enable those private owners to do the work themselves and send in the bill to the local authorities? I thought it a reasonable and a proper provision, and I accepted it. But what did the House of Lords do? They immediately seized hold of it, as they have done all through this Bill with every concession that has been made, to turn it into a right, not of private owners of some 1,100 schools, but of the owners of all the voluntary schools, 14,000 in number, who are to be at liberty to do the repairs if they like (the local authorities not being at liberty to do them), and to send in the bill. I say that is a most unreasonable thing. It is not business.

"The local authorities, one and all, will justly complain of this interference, and of the increased expenditure, and of the delay that will be occasioned by any such alteration. So much for

Clause 2, which undoubtedly does most materially interfere with popular control.

"Clause 3.

"That the religious instruction was to be given on two mornings so as to secure that every child got his two mornings and no more a week; and it was perfectly well understood that it was for the local authority to make the arrangement. The Lords struck out the reference to the local authority. Now it is absolutely essential that the local authority should be master in its own school-house, and should have the right of determining whether or not entry on more than two days a week was really necessary. But this question, under subsection (3*a*), is another dispute which is to be referred to the Board of Education. To that clause there is a remarkable addition—I think it is the addition which was introduced into the Bill by Lord Salisbury in another place. It is subsection 2, which says:—'If the parents of a reasonable number of children attending any public elementary school require facilities for their children of the same character as those to be afforded under the foregoing provisions of this section, and, in the opinion of the local education authority, those children cannot conveniently attend some other public elementary school in which facilities for religious instruction of the special character desired by the parents are afforded, the local education authority, without prejudice to any of their powers or duties under this section, shall, so far as it is in their opinion reasonably practicable to do so, afford those facilities in the school within school hours accordingly.' The entry to the Board school is entirely inconsistent with the doctrine of popular control.

"Clause 7a.

"Look at 7*a* at the bottom of page 8 on the white paper. 'If any persons consider that a new public elementary school with facilities for religious instruction of some special character not permitted under section 14 of the Elementary Education Act, 1870, is required in any district, they may give public notice of their intention to provide a school-house for the proposed school,' and 'when such notice has been given the Board of Education shall determine whether the proposed school is required, and in so doing'—then follow certain words with

which already I am only too familiar—'shall have regard to all the circumstances of the case'—that is to say, all sorts of perfectly inconsistent things, the wishes of the parents, the economy of the rates, the interest of secular instruction. They 'shall take into consideration' any appeal made by the ratepayers; and if they determine that the school is required an arrangement is to be made by the Commission, and after the powers of the Commission shall have expired, it is to be done by the powers of the Board of Education. Well, now, I really do ask the House what has become of popular control over the whole area assigned to the charge of each particular authority if any such provision as this is by any possibility to become law? The thing, I may venture to say, almost becomes a farce. Men all over the north of England and in London and elsewhere will inquire, 'What is the good of being on a local authority if all my power, all my responsibility, all my opportunity of doing what I consider to be absolutely good are to be absolutely destroyed and vitiated?' With this provision it is impossible to maintain that this is a Bill to secure, preserve, and maintain popular control.

"CLAUSE 9A.

"Now I come to the new clauses added. Clause 9*a*, on page 13, runs thus:—'(1) Where the local authority fail to accept an arrangement offered to them by the owners of the school-house of an existing Voluntary school, as regards the use of the school-house, and the school is one in respect of which facilities in accordance with section 3 or 4 of this Act are desired, the owners of the school-house may appeal to the Commission appointed under this Act, and that Commission shall'—and so on, and if the Commission are of opinion that there are sufficient grounds of refusal—'by order require the local education authority to continue the school as a public elementary school provided by them on such terms and conditions as respects the use of the school-house as may be provided by the order, and to afford the facilities desired.' Now there again is a very similar instance of that unilateral principle of which we complain. It is difficult to see how you can reconcile this with the principle of public control. As the Bill left the Commons the local authority had complete liberty whether they would take over a school or not except that when facilities under Clause 4 were demanded and had been denied that was an exception; but this new clause

upsets the whole principle of public control. The amendments of the Lords affect, vitally affect, the doctrine of public control. They would render it almost impossible for a local education authority hereafter, if the Bill became law, to accept with any sense of duty the responsibility of an office the real duty attaching to which it would not be allowed to discharge.

"Tests for Teachers.

"I say we were justified in doing all we could, in face of craft, machinations, and denominational devices, to insist that no religious test should be imposed on a teacher on his appointment or in the course of his employment. It was a delicate point, but it was a necessity—it was part and parcel of our Bill that we meant to prevent the application of such tests directly or indirectly. That was the only reason for forbidding teachers in a transferred school in Clause 3 from giving Catechism or Prayer Book teaching, even though they were willing to give it. We wished to prevent this, because we had suspicion—and can any man honestly say that the suspicion is unjustifiable or unreasonable—that if a teacher were allowed to undertake the duty he would be asked by some one, somewhere, not necessarily formally or in public, but sometime or other, it might be at teatime, whether, if appointed, he would volunteer for this teaching. If, in such circumstances, he said 'No,' can you doubt that in many cases his chance of getting the appointment would be very materially reduced? We make no mystery about the reason, and there is nothing to be ashamed of in it; we ask the House, Is it an unreasonable suspicion? The clause in the Lords' amendment would compel the local authority to appoint the teacher, if willing ('No')—they say 'shall'—to give special teaching. It is an unqualified provision, it makes no distinction between town and country, between head and assistant teachers, it will permit any teacher to give the teaching if willing. Therefore, so far as our attempts to secure that there shall be no tests for teachers are concerned, they must be considered as struck out of the Bill and destroyed by the action of the House of Lords. Now turn to subsection 3 of Clause 8: 'In every public elementary school in which extended facilities are afforded under this Act, the local education authority shall consult with the parents' committee as to the appointment of any persons to be teachers in the school'—and then it goes on—

'and shall satisfy themselves that the persons so appointed are qualified and willing to give the religious instruction for which the extended facilities are afforded.' Now, how are the parents and local authority to satisfy themselves that a particular teacher —say, a Roman Catholic—is qualified to teach the tenets of the Roman Catholic faith? Clause 4 was a very difficult clause to get into the Bill at all. It went, we admit, to the utmost point, it went somewhat dangerously near going outside the pledges we had given that there should be no tests for teachers, that I do not deny, but we justified it, and I shall still continue to justify it by saying it was intended to be an exception, and to deal with exceptional cases. What those excepted cases were have been repeated so often, I fear, to this House that it is almost waste of time to reiterate them—homogeneous schools, schools where the overwhelming majority of the children attending them were the children of parents who wished those children to receive definite, well-ascertained, clearly-defined, generally understood religious opinions. In these circumstances, under certain stringent conditions as to the character of the school, to secure its homogeneous character, and as to there being in the immediate neighbourhood other public school accommodation where the minority of the children, if there be any such, could receive undenominational education, we thought, and we still think, that if it had been fairly treated in another place that exception could have been allowed. That was the whole state of our case with reference to that. What have the Lords done in these amendments? First of all, they have destroyed the homogeneous character of the school, which was the very essence of the clause, but for which the clause never could have found its way into the Bill at all in face of the difficulties which we had to contend with. The Lords first destroyed it by a very bold amendment reducing our four-fifths to a bare majority. Then, on reflection, they thought that was perhaps a little too much, and they substituted two-thirds. They have not only, by this amendment, destroyed the character of the school, but by a second amendment they have got round the obligation for public school accommodation hard-by by saying that in what we used to call a four-fifths school—but what, I suppose, they would call a two-thirds school—within the walls of that school the undenominational teaching according to the Cowper-Temple clause should be given. I say, and hon. gentlemen opposite will surely have the candour to admit, that was to tear our Clause 4 into tatters. It was to make it impossible; its

argument impossible. Had we nothing but the Lords' amendments to Clause 4 to go by they would afford us clear and convincing proof that the House of Lords deliberately intended to change the whole character, scope, and purport of this Bill I do not think I can do better than quote the admirable words of Lord Crewe when he said they had 'turned rules into exceptions, and exceptions into rules.'"

From Lord Crewe's Speech, December 17, 1906

"I cannot pledge the majority of the House of Commons to take the same view of a particular matter which the Government do. All I can do is to state certain modifications dealing with the more important points of the Bill which in the view of the Government might be agreed upon in existing circumstances in consideration of the Bill passing, and which accordingly we would be prepared to recommend in consideration of the passing of the Bill.

"Clause 3.

"I deal first with the facilities under Clause 3. Those facilities in ordinary circumstances in schools of moderate size we think could quite well be given by an outside teacher, in many cases by the clergyman. We have all through been bound to impress upon your lordships that if the school teacher in a small country school should be empowered to give this Clause 3 teaching, a great many people would say, and say with justice, that the school was so maintaining its denominational character that the transfer was not worth making at all, and that the result would be that in those rural districts a number of children would receive Catechism teaching contrary to the desire of their parents. But we do admit that that argument does not apply in all cases. There is, no doubt, a considerable number of large schools, especially urban schools, where it would undoubtedly be exceedingly difficult for the Church of England, or any other religious body, to find volunteers who would be prepared to give special denominational teaching. We desire not to mix up the head teacher in this matter. We think that the head teacher in the schools, now that these schools become in the main undenominational schools, should be a neutral person; but we do think that it would be possible for assistant teachers, of their own accord and by agreement with the local authority, to give

this teaching in other than single schools in rural parishes. If it could be shown—and upon that I am not certain, because it would demand the close investigation of figures—that, outside that limitation, there are a considerable number of really large schools at which it would be difficult to have volunteers to give this teaching, it might be possible to extend this privilege to schools outside such areas of really large size. There is one other point which markedly affects the schools under Clause 3. It is raised by the new clause inserted at the instance of the Duke of Devonshire. I by no means despair of our arriving at a conclusion which would at any rate go a considerable way to satisfy the desires of the noble Duke and, I think, of the House as a whole, in this matter of not allowing a capricious refusal of schools by the local authority.

"CLAUSE 4.

"We are not prepared to admit single schools in rural areas to the provisions and privileges of Clause 4. Its actual effect was that in many circumstances village schools in single-school parishes might become Clause 4 schools. To that we could not agree; but short of that we should not be found rigid on the question of area. And we should also be prepared at any rate to meet the noble Marquis as far as we could by an amendment to make it clear that a very small number of children should not be able to prevent in any case those schools from obtaining the privileges of Clause 4. As to the numerical point—that of four-fifths, or three-fourths, or two-thirds—we should be compelled to adhere to the principle that the proportion, whatever it is, must be the proportion of all the parents and not of those who vote. Consequently we should certainly be prepared to accept, at any rate, a considerably lower number than our original proposal of four-fifths. Then we should agree to insist on the amendment, of which I think I expressed general approval when it was moved by Lord Clifford, giving a prior right of entry to children of a particular denomination; and, although this is a matter which I know has caused heart-burning in influential quarters which we respect, we should, I think, be prepared to recommend that a parents' committee should have a definite consultative voice in the appointment of the teacher. That is as far as we can go, and I think noble lords opposite will recognise that to attempt to give anything like a veto in these circumstances would be too

much to expect of us; because it would be a course—it would be a direct and very large infraction of our principle of no tests for teachers. We should also, I think, be prepared to recommend to the House that, where a new Clause 4 school is desired, there should be a right of appeal which was not stated in the original Bill."

From Lord Crewe's Speech, December 19, 1906.

After private conferences had failed to bring about an agreement, Lord Crewe made a final statement as to the points at issue:—

"As regards the amendment to Clause 1, on the subject of religious instruction, it is perfectly true that we move to disagree with that amendment. But at the same time I am bound to say that I do not think that that amendment of itself would have offered an insuperable obstacle to an agreement between the two parties, or that it was impossible to find a form of words which in some degree might have met the wishes of noble lords opposite without dictating to the local education authorities upon a matter in which, it is only right to remember, they have exercised an absolute discretion for the past thirty-six years.

"I pass to the facilities under Clause 3. One of the main principles of our Bill is that these schools should be undenominational schools as compared with Clause 4 schools. The Duke of Devonshire's amendment with regard to the taking over of schools for the purpose of Clause 3 left to the Commissioners complete discretion to say that those schools must be taken over; but they were to be guided by the wishes of the parents with regard to the religious education of the children. In our opinion that went too far. Consequently we proposed an alternative method—that where an order is made requiring the local education authority to give facilities, and the Commissioners are satisfied that the school is structurally suitable and is required or is likely to be required for providing a sufficient number of school places, then an order is to be made. In our opinion that was a substantial concession, and it met a large proportion of those cases of denominational schools which did not come under Clause 3.

"Now I come to the vexed question of the teacher. I will read you the clause we propose about the teacher in these ordinary facility schools:—

"'(2) The local education authority may, if they think fit, permit an assistant teacher to give any religious instruction of a special character not permitted under section 14 of the Elementary Education Act, 1870, in any school in which facilities for that instruction (although not extended facilities) are afforded under this Act, provided that the authority shall not give that permission in any school in a parish in a rural district which is the only public elementary school in the parish, except in cases where such a school provides accommodation for more than 250 children, and the authority think that the circumstances of the school justify the permission. (3) If any question arises under this section as to whether a teacher is a head teacher or an assistant teacher, that question shall be determined by the Board of Education.'

"Your lordships will observe that the whole matter is left absolutely, as we were bound to leave it, to the discretion of the local authority, and that only the assistant teacher could give the teaching, while the small rural schools were to be excluded. We find that in England and Wales there are 410 large country schools that would get the benefit of the teaching of these assistant teachers. Altogether 765 schools would obtain the advantage of that teaching. If that is not a substantial concession, and one which we gave, I confess, with great searchings of heart, it seems to me to be very difficult to say to what extent concessions should go. Noble lords opposite demand this privilege for all schools, of whatever size, both in town and country—that every teacher should be allowed to give it, if he is willing, and that it should be a statutory obligation on the authority to allow it to be given. The noble Marquis opposite said that the teachers demanded this permission. I think the noble Marquis is going far beyond the mark in making that observation. No doubt a certain number of teachers demand it; but the statement has not been contradicted that among the whole body of teachers there is a majority who would prefer not to receive the privilege. The interest of the whole of this business to me consists in this fact. Taken in conjunction with the previous amendment it practically means that any Church school could be taken over; it simply means that the majority of this House makes Clause 3 schools absolutely denominational schools. You cannot get away from that fact; that is the absolutely unbridgeable gulf that lies between noble lords and ourselves, and it is one over which we have been, as is clear,

unable to find any passage. After all the sole difference between these schools as noble lords want to make them in the Bill and those schools as they are now consists, on the one hand, that rent is paid for them by the authority and the authority undertakes the repairs, and, on the other hand, they have to run the risk of not getting religious teaching. If they do, there is apparently to be no difference in future as to what is taught in the schools. All I can say is that this only shows how perfectly hopeless it was from the first to attempt to come to any agreement on this subject. To vote money for such a purpose as that is a deliberate mockery. To ask the local authority possibly to increase their rates, to ask the Exchequer to frame a minute in order to carry out a transaction of that kind, is nothing less than a farce.

"I come now to Clause 4. What is the effect of the amendments? I can give up the restriction as to urban area and say nothing about the 5,000 limit. We have tried as far as we could to meet the point about the small number of Church parents who could prevent a school from being made a Clause 4 school at all. We gave a prior right of admission to children belonging to the denomination—in my opinion a very real concession indeed. We gave the parents' committee, and as to it we gave a concession of the most far-reaching character, and one which I am bound to say we should have found, in my belief, considerable difficulty in getting our supporters to accept. The provision to be inserted would read, 'In every public elementary school in which extended facilities are afforded under this Act the local education authority shall appoint persons acceptable to the parents' committee to be teachers in the school, and for that purpose shall consult with the committee as to such appointment.' If I am asked exactly how we reconcile the words of that clause with the general rule of 'no tests for teachers,' I confess that I am in a difficulty. I am bound to admit that it would be, owing to the very special circumstances, treated as an exception to that excellent rule. We gave an appeal to the parents against the refusal to institute a Clause 4 school or against a refusal to continue. We gave way on the number of four-fifths. I do not think that I have placed the number three-fourths on the paper, and I do not know that we would have lost the Bill over the question of three-fourths. But we did stand out, and we should stand out to the last, for the necessity that it should be a proportion of the whole number of parents, and not merely of those who go to the poll. We must

be taken as agreeing to the amendment that the local education authority should permit the teachers employed in the school to give the teaching. In addition to that we gave the possibility of inspection of all transferred schools, and we gave up the clause which made it not necessary for children to attend school during the hours of religious instruction. It is perfectly true we did not give way, and we never should have given way under any circumstances, on the absolute right to be taken over of any structurally inefficient voluntary school. We never could have given way to the demand of the noble lords opposite about the teachers. We could not give way—having made these denominational schools, as we think, so numerous and so liberally provided for—to any invasion of the council schools by denominational education. We were not prepared, and certainly never should have been prepared under any circumstances, to give way to what the noble Marquis (Lansdowne) proposed—the absolutely indefinite multiplication of Clause 4 schools, possibly some the smallest village schools in the country. And on the question of Wales, I can only say that noble lords opposite treated that proposition with mere contempt. They altogether refused our invitation to make some counter-proposition with regard to what we did and do consider to be the fair claims of Wales to some separate sort of treatment in this matter; and consequently I am unable to agree with the insistence of the omission of the Welsh clause. This is how the matter stands. I have gone through all the principal amendments, and I am content to leave it to the judgment of all moderate and reasonable people whether they do not represent a very large amount of concession indeed. I appeal to the common sense of moderate people, both inside and outside this House, as to whether the concessions which I have indicated would not have formed a compromise acceptable to the vast majority of the people of this country. All I know is that in attempting to arrive at this conclusion we have strained the loyalty of many of our most valued supporters almost to the point of snapping. For all I know it has absolutely snapped in more than one case; I only hope it will be restored. I frankly confess that there is more concession in these amendments than personally I like; but as a member of the Government I, of course, not merely accept but advance them, and I believe that is in the main the attitude of the members of our party. Many of them think we have gone too far in conceding so much, but they are prepared to accept it. But only on one condition—the only

condition on which we could have gone so far as we have, and that is that it should be as part of a definite settlement and accepted as such by the party opposite. I hope no noble lord or right rev. prelate is under the illusion that these concessions are, so to speak, thrown down on the floor of this House, to be picked up whenever the party opposite may condescend to stoop for them. That, my lords, would be a most serious illusion. But this I do say, in conclusion, that we on this side of the House, and his Majesty's Government, whatever the consequences may be, deliberately refuse to accept one ounce of the burden of responsibility for the rejection of this Bill. We leave the whole of it on the shoulders of noble lords opposite and the right reverend bench, who have chosen to wreck this Bill."

CHAPTER VII

THEIR HATRED OF RELIGIOUS EQUALITY

No one can pretend to be astonished that the Lords should have wrecked the Education Bill by insisting upon the maintenance of religious tests in the educational branch of the Civil Service. "Let dogs delight to bark and bite," said good old Dr. Watts, "for 'tis their nature to." And on the same ground if the House of Lords exists, and so long as it exists, they will insist upon religious tests. It is the law of their being. "It's the nature of the beast." They have always done it, and they will go on doing it to the end of the chapter. The impudent assertion that they have not insisted upon tests, when they insisted upon rendering it practically impossible for any one to become a schoolmaster in half the schools of the country unless he was willing to teach the Church of England Catechism, is a dishonest subterfuge which imposes upon no one who does not wish to be deceived. It would be more manly to admit the fact and justify it as best they can. To the House of Lords religious tests and the imposition of civil disabilities as the corollary of such tests are part of the nature of things. Every removal of religious tests has seemed to them, and still seems to them, to be flying in the face of the will of the Deity. It is as foolish to be angry with them for acting in accordance with their hereditary instinct as it would be to scold a duck for taking to the water or a sow for wallowing in the mire. If they have been consistent in nothing else they have been consis-

tent here. It would be as easy to amputate a back bone as to exorcise the spirit of irreligious arrogance, irreligious ascendancy, irreligious intolerance from the House of Lords.

The Peers have always been the persistent, steady, and unwavering opponents of every recognition of the claims of Nonconformists to an equality of rights and privileges with Churchmen. On one occasion, and on one occasion only, have they shown themselves more Liberal than the House of Commons. In 1877 they surprised every one by voting in favour of destroying the monopoly of the graveyard, of which they had previously been the stoutest champions. It was but a momentary aberration. In 1880, when the Burial Bill came before them, they showed all their old anxiety to minimise a concession which could no longer be withheld; but that even for a single session the Upper Chamber should upon a question of religious equality have been in advance of the House of Commons is an unexampled phenomenon, deserving if only from its rarity to be mentioned at the beginning of any retrospect of the action of the Peers on this subject. It is the solitary exception that proves the rule.

A debate which took place in 1834 upon a proposal to repeal the law which then disgraced the Statute Book, forbidding the holding of religious meetings attended by more than twenty persons in private houses, illustrates the position from which the Peers approached such discussions. The proposal to allow unlicensed private persons, without taking any oath or subscribing to any declaration, to hold service in their own houses scandalised their lordships, and the Bill was rejected without a division. The Bishop of Exeter laid it down to his own satisfaction, and apparently to that of his fellow-senators, that the Bill was opposed to the Twenty-third Article of the Church of England, which declared that "it was not lawful for any man to take upon himself the office of public preaching," and as the whole Thirty-nine were "part of the unalterable Constitution of the realm," the Bill was manifestly unconstitutional

and merited the immediate rejection which it received. The Bill was primarily intended for the relief of members of the Church of England, but its rejection indicated clearly enough the hopelessness of inducing an assembly which held such views to do justice to Nonconformists. They had passed the Bill repealing the Test and Corporation Acts with reluctance before the Reform Act, but the Bills which were the natural and legitimate corollaries of that measure they rejected year after year without the least compunction.

The same year that the Bishop of Exeter had asserted that the Thirty-nine Articles were an unalterable part of the British Constitution the Duke of Wellington laid down the law that the King's Coronation Oath compelled him to reject every proposal to allow Nonconformists to be educated at Oxford and Cambridge. The Duke's reasoning was somewhat peculiar. By the Royal Coronation Oath the King was "bound to see that in the universities the true doctrines of the Gospel, the doctrines of the Church of England, were maintained and taught, and nothing else." To admit a Dissenter would be to give him a chance of gaining a seat in the governing bodies of the universities, which would imperil their exclusively Church of England character, and so "overturn every principle contained in the King's Coronation Oath." When the leader of the majority in the Lords held such a doctrine as this, the fate of the Bills sent up by the Commons in favour of freeing the national institutions from sectarianism might be foreseen. The first Bill opening the universities to Dissenters was sent up to the Lords in 1834 by a majority of 164 to 75. It was rejected by the Peers by a majority of 102 to 85. Twenty-two bishops voted in the majority, only two in the minority. Twenty years later the Peers reluctantly accepted a Bill enabling Dissenters to take degrees at Oxford and study at their own private halls, but the concession was carefully limited by amendments shutting out Nonconformists from all offices hitherto reserved for Churchmen qualified by a university degree.

The struggle for the opening of the national universities freely to all the youth of the nation did not begin until many years later. In 1864 the House of Commons declared by a small majority that the sectarian monopoly of the national seats of learning should cease. In 1865 they repeated this declaration, but in neither case was the Bill sent up to the Peers. In 1866 the Commons carried the second reading of the Test Abolition Bill by a majority of 114, but the lack of time proved fatal to the further progress of the measure. In 1867, however, after the Bill had been read a second time without a division in the House of Commons, it came on for second reading in the House of Lords on July 25th. The Bishop of Peterborough reminded the Peers of the duties they owed to "God and the Church," and the Bill was flung out by a majority of 74 to 46. Four bishops voted in the majority, and two on the other side. In 1869 the Bill was sent up again, only to be rejected by a majority of two to one, three bishops voting in the majority. In 1870 their lordships, being again confronted by the demand for justice, condemned the Bill by a majority of 14, but shelved the matter for another year by referring the question to a Select Committee. In 1871 the long fight came to a close by the complete surrender by the Lords of nearly every position which they had previously undertaken to defend. True, however, to their hereditary instinct, they added amendments exempting the heads of colleges from the provisions of the Bill, imposing a new test upon tutors, and preventing governing bodies of colleges from making liberal alterations in their statutes. The Commons summarily disagreed with these amendments, and the Bill went back to the Lords. Lord Salisbury proposed they should insist on his new test for tutors, but the Peers rejected his proposal by 128 votes to 89, and the struggle terminated at last in the complete triumph of the popular party. But even in the hour of victory it was impossible to forget that the Lords had been able to retard for five years a reform the Commons had sanctioned as far back as 1864.

As with University Tests so with Church rates. In 1858, after many years' discussion, the House of Commons sent up the Bill abolishing Church rates to the House of Lords by a majority of more than 60. The Bill was hotly debated, and, after a lengthened discussion, it was rejected by the Peers by the decisive majority of 187 votes to 36, 24 bishops voting against it. In 1860 the Bill was again sent up, this time by a smaller majority. The second reading was carried by a majority of 29, but on the third reading it dwindled to 9. The Lords threw out the Bill by 128 votes against 31, 16 bishops voting in the majority. In 1867 a new Church Rates Abolition Bill was read a second time by a majority of 76. On the 8th of August the Lords threw out the Bill by a majority of 82 to 24, 7 bishops voting in the majority. In 1869, after the Bill had been referred to a Select Committee, the Lords gave way, and the measure, the success of which they had declared would be fatal to the Church, was placed on the Statute Book with their consent, but without any of the fatal consequences which they had predicted.

The clerical monopoly of the national burial grounds, after being repeatedly condemned by the House of Commons, was maintained by the House of Lords down to 1880. In 1876 16 bishops and 132 temporal peers voted for the monopoly, and only one bishop and 91 peers against it. In 1880 they reluctantly gave way, the Bishop of Lincoln declaring that if the Burials Bill became law, "it will be an Act for the burial of the Church of England herself, not indeed as a Church, but as a national establishment of religion." The Peers did their best to render the Bill abortive. They restricted its operation to parishes where no cemeteries exist; they excluded from its provisions the consecrated section of cemeteries; and otherwise sought to cripple the Bill. The Commons made short work with these amendments, and restored the Bill to something like its original shape. But although the Lords did not succeed in defacing the measure, their amendments remain on

record to prove how unwillingly they surrendered to the nation the national graveyards which had been monopolised by a sect.

The struggle for Jewish emancipation was even more protracted than those waged over the opening of the universities or the abolition of Church rates. Even the little Bill admitting Jews to Corporations was rejected in 1841 by a House substantially identical with that which accepted it without a division in 1845. The history of the Jewish Disabilities Relief Bill can best be told by placing the majorities in favour of the Bill in the Commons side by side with those against it in the Lords. The following is the record:—

Date.	Commons—For.	Lords—Against.
1833	137	50
1834	36	92
1836	17	withdrawn
1848	97	35
1851	25	36
1853	51	49
1857	140	32

In 1858 the contest between the two Houses, which had been carried on for a period of twenty-five years, came to a close. The Lords, after a vain attempt to mar the Bill, gave way, and the Jews at last were admitted to the full privileges of citizenship from which they had been debarred for a quarter of a century by the veto of the hereditary Chamber.

In dealing with Dissenters, at every stage of their existence, from the cradle to the grave, the Lords have uniformly endeavoured to brand them with some sign of inferiority. The Dissenters' Marriage Act of 1836 was only permitted to pass on condition that all those who dispensed with the services of the clergy should submit to the ignominy of having their banns read before the Board of Guardians.

The Lords amended the Poor Law Bill in 1834 so as to deprive the Nonconformist minister of a statutory right of access to the workhouses, and the first conscience

clause passed by the Commons was rejected by the Peers. Fortunately the Commons insisted, and the Lords reluctantly consented to its restoration.

Permission to substitute an affirmation for the oath in courts of justice was resisted session after session, until piecemeal concessions first to one and then another of the sects rendered it possible at last for the courts of justice to receive the evidence of any citizen without insisting upon his being sworn. They attempted by an amendment of the Municipal Bill to reimpose the Test Act in order to exclude Nonconformists from any share in the administration of charitable trusts ; and it is not ten years ago since the House of Lords rejected scheme after scheme of the Endowed Schools Commissioners, in order to preserve to the dominant sect a practical monopoly of intermediate education.

It is thus obvious that the House of Lords, in wrecking the Education Bill of 1906, were but doing as their fathers had always done before them. The question arises whether, when so vicious a strain is so persistent in the breed, it should be allowed to propagate its kind ? Any scientific stock-raiser would make short work of any variety which so invariably reverted to a faulty and vicious type. Has not the time come when a legislative House which seems unable to slough off the virus of mediæval intolerance should suffer merciful euthanasia at the hands of the nation ?

CHAPTER VIII

THEIR JEALOUSY OF LOCAL SELF-GOVERNMENT

THE House of Lords, being a hereditary and aristocratic chamber, has always shown a morbid jealousy and distrust of local self-government. This is perhaps inevitable. It is fortunately impossible to graft hereditary legislators upon the freely elected local bodies upon which the local administration of the country depends. Therefore the instinct of the hereditary chamber is to limit their liberties, to curtail their authority, and to deny them the powers necessary for the due discharge of their functions. They have always done so, and so long as they remain the one unreformed institution in the country, they always will. Considerable indignation was expressed, not unnaturally, at the conduct of the House of Lords in the last days of the session of 1906, when they mutilated the Feeding of Children in Schools Bill by striking out the clause relating to Scotland. The Bill was an enabling measure giving permission to local authorities, if they thought it necessary in the interests of humanity and of education, to make provision for feeding children who came hungry to school. The Lords, even the most impecunious, have always enough to eat. None of that fellow feeling which makes one wondrous kind moved them to have pity upon the hungry urchins who come breakfastless to school. There is little doubt that if they had followed their instincts they would have thrown the Bill out altogether. But they dared not do that. Scared by their own success

in wrecking the Education Bill, they did not venture to reject that for the Feeding of Starving Scholars. But they could not resist the temptation to maim the Bill, and so they refused to allow it to apply to Scotland. The case in favour of extending it to Scotland was even stronger than that in favour of applying it to England and Wales. When the Bill was before the Commons it was opposed by several English members, but the only opposition from the north of the Tweed came from a single member sitting for a University constituency. All the Scotch members elected by Scotch householders approved the Bill. In the nature of things Scotch local authorities are much less likely to abuse the permission given them by the measure than those in the south. But it so happened that although Mr. Craik, the solitary Scotch opponent of the Bill, utterly failed to gain the ear of the House of Commons, he had influence with Lord Balfour of Balcarres, and B. of B. is the Lord of the House of Lords so far as Scottish legislation is concerned. Therefore the clause extending the Bill to Scotland was struck out. The Commons growled, but the last day of the session had come, and they had to choose between the loss of the entire Bill or of acquiescing in what is facetiously described as the Lords' Amendment. They chose the latter alternative.

It is very provoking, no doubt, but to use a homely metaphor, what can you expect of a pig but a grunt? The Lords but acted as they have always done. The real blame lies at the door of the nation which has, in its indolent apathy, suffered this obstructive institution to survive till the twentieth century.

The House of Lords has contributed but little to the constructive legislation of the last century. Its function has been negative, obstructive, and destructive. It has rejected measures of constructive statesmanship, retarded for the lifetime of a generation the removal of ancient abuses, and by the shortsighted Conservatism which has led it to reject reforms it has contributed to the destruction of institutions it sought to preserve. But with the exception of the three-cornered constituency, it has

hardly created anything since the Reform Act of 1832 but the alderman. The alderman may indeed be regarded as almost the solitary monument of the legislative genius of the Upper House. He is a curious product of the attempt of the Peers to create a privileged order in the heart of our municipalities and county councils, and his existence recalls what was one of the most serious collisions between the Peers and the nation which has taken place since 1832.

The Municipal Reform Act of 1836 is justly regarded as one of the greatest of the reforms which owe their origin to the energy of the first Reform Parliament. But this great measure, which created anew the whole machinery of municipal government, narrowly escaped defeat through a collision between the two Houses. If the Bill had perished, the popular movement against the House of Lords would have assumed serious proportions; but the crisis was staved off by a series of mutual compromises, of which the alderman remains as the most conspicuous memorial. The Municipal Reform Bill, as it was sent down by the Lords to the Commons, was an entirely different measure from that which the Commons had sent up to the Lords. Not daring to reject outright a measure of reform which was not less obviously required by the necessities of the times than it was urgently demanded by the popular voice, the Peers allowed the Bill to pass its second reading, and then eviscerated it in Committee, exactly as they did with the Education Bill of 1906. The alterations which they effected afford a striking illustration of the extent to which their Lordships, while appearing to improve a measure, can transform it so utterly as to make it unrecognisable by its authors. The Commons proposed to establish the municipal government of our boroughs on the broadest popular foundation. The householders were to elect the councillors by whom the whole government of the town, even to the nomination of its justices, was to be exercised. All the old system was swept away at a stroke, and the new corporations were left untrammelled to carry out the wishes of their con-

stituents. Such was the Bill as it entered the House of Lords; such was not the Bill when it was sent back to the Commons. Unable to save the corrupt old system *en masse* from extinction, they endeavoured to snatch as many brands from the burning as they could. All the freemen were restored to the burgess roll. All the old town clerks were made irremovable. All the existing aldermen were secured the possession of seats in the new town councils for life. All the justices who sat on the bench in their corporate capacity were secured fixity of tenure. New aldermen were to be elected for life by the town councillors, to form a kind of municipal life peerage in the heart of each corporation. The right to nominate justices was taken away from the councils. A high property qualification was insisted on for councillors, and Nonconformist councillors were excluded from any share in the exercise of corporation Church patronage. The appearance of the Bill as it emerged from the Upper House created a storm of indignation throughout the country. Ministers were implored to reject the Lords' amendments *en bloc*. This course was strongly pressed upon the Government by Mr. Roebuck; Mr. O'Connell was equally defiant of the Lords, but he thought the best method was to make what concessions they could, and then dare the peers to throw out the Bill. His advice was taken. The Ministers refused to assent to the perpetuation of the town clerks and aldermen of the old system; they refused to re-enact the Test Act in relation to Church patronage; but they assented, with modifications, to the property qualification which lasted down to the last Parliament, to the continuance of the freemen, to the loss of the right to nominate justices, and to the institution of aldermen for a term of years. Thus the alderman was saved from extinction by the House of Lords, which renewed the lease of his existence and enabled him to secure to this day in Liverpool and elsewhere a Conservative majority in councils where, but for his presence, power would have passed into the hands of the Liberals. It is, perhaps, a righteous Nemesis that

the aldermen in the London County Council were in after years to give solidity and strength to the Progressive majority in the body which rekindled the faith of the nation in democratic institutions.

There was some very plain speaking in the Commons in those days upon the conduct of the Lords. Sir William Molesworth declared that the Commons had gone too far in the path of compromise and concession.

"Of what use was the House of Lords? Their conduct afforded the nation an easy and simple reply to that question. Their conduct was politically evil. On that subject every second person with whom he conversed held opinions not very dissimilar from his own. Let them pursue their course a little further and the period would quickly arrive (which he for one would be glad to see) when an end would be put to the privileges of an hereditary aristocracy—of that body which in his solemn belief could never be reformed save by being dissolved."

The reason for this irritation was stated by O'Connell, in a passage which is worth quoting if only to illustrate the extent to which the House of Lords operated as a check on public business:—

"See what an immense quantity of most useful measures had been stopped in the other House during the present session! Take England. What had become of the Executors and Administrators Bill—a Bill of the utmost importance, doing away with some of the grossest absurdities of the law? It was cushioned. What had become of the Execution of Wills Bill? Cushioned. What of the Prisoners' Counsel Bill? Cushioned. What of the Imprisonment for Debt Bill? Thrown out. Turn next to Ireland. What had become of the Irish Church Reform Bill—the first honest experiment to conciliate the people of Ireland by the Government of England? It was treated with indignity, wholesale indignity. Twenty-five clauses annihilated at one breath; they were struck out by the gross, and wholesale contumely as well as injustice was cast upon Ireland. What had become of the Irish Marriage Bill? It was thrown out; and what was the result? Why, that in every instance where illegal marriages had been effected the innocent child alone was left to be punished. What had become of the Irish Constabulary Bill? Thrown out on the most frivolous reason ever heard of. What had become of the Dublin Police Bill and the Irish Registry of Voters Bill? It was not yet destroyed; but he need not boast much of the spirit of prophecy to foretell what would become of that Bill. In short, as regarded England, the other House had evinced a deter-

mination to stop everything that was useful; and as to Ireland, they treated everything of conciliation or of justice with contumely and contempt."

The Dublin Police Bill and the Irish Registration Bill shared the fate which O'Connell predicted. The great Agitator spent the recess in haranguing vast assemblies in the North of England and in Scotland on the evils of the House of Lords.

Thirty-seven years later the Peers threw out a Bill introduced by Mr. Gladstone's first Administration for devising a method of terminating the deadlock that had arisen over the question of the altering the boundaries of wards. Lord Salisbury detected in the proposal some political plot, and the Lords threw the Bill out by 77 votes to 56.

Between 1835 and 1872 the Lords enjoyed many opportunities of expressing their jealousy of the democratic system of municipal government. In 1836 they refused to sanction the Poole Corporation Re-election Bill, which provided for the re-election of the Poole Corporation on account of the gross fraud which characterised the first election in that borough; and rejected by 43 votes to 27 the proposal to permit affirmations in lieu of oaths to corporation officials. So stubborn were they about the matter, that when the Commons, to meet their views, detached all the clauses to which the Lords had objected from the Municipal Bill, and sent up a new measure consisting only of matter which had already received their Lordships' consent, it was incontinently rejected. Two years later a Bill giving borough justices the same control over borough gaols as that possessed by county justices over county gaols, permitting the appointment of a chaplain other than a clergyman of the Church of England, and increasing the power of the Secretary of State, was rejected by 33 votes to 32. Nearly forty years later a Conservative Ministry carried a Prisons Act far more centralising than that which the peers rejected in 1838.

In dealing with the question of Poor Law relief the Peers do not appear to so great a disadvantage as com-

pared with the House of Commons. In the great Poor Law Act of 1834 most of their amendments were agreed to by the Commons, Lord Althorp somewhat significantly expressing his gratitude that their alterations had not made the Bill much worse. They occasionally have thrown out Bills providing for the more effective management of charitable trusts, but their action seems chiefly to have been prompted by an excessive jealousy of Nonconformity and an equally excessive anxiety for the protection of vested interests. For instance, Lord Lyndhurst complacently justified the rejection of the Charitable Trustees Bill of 1836 because it would have admitted Dissenters, if members of town councils, to a share in the management of funds hitherto exclusively in the hands of Churchmen. In 1835 they rejected a proposal to appoint Charity Commissioners to inquire into the public charities of England and Wales. Sometimes they interfered, as in 1836, to perpetuate the exemption of privileged corporations from liability to poor rate; and sometimes they interposed a peremptory veto upon a necessary measure for the reform of local taxation, as in 1873, when they rejected the Rating Act. Once in 1870 they went so far as to throw out a Bill, the loss of which, if it had not been promptly remedied, would have rendered it impossible to levy a rate for the poor in any parish in the kingdom; but this was exceptional.

The most conspicuous instance of late years in which the Lords showed their animus against the extension of self-government to the people of this country was the way in which they mangled the Parish Councils Bill of 1894. Here again, as in 1906, they shrank from giving effect to their feelings by throwing out a Bill they hated, so they set to work to mangle it. The story of their operations was set forth as follows in a leaflet issued at the time by the Liberal Publication Department:—

"The first thing they did was to make the Parish Council optional in nearly 5,000 villages. The Commons, after several long debates, had decided that all parishes of more than 200 population should have a Parish Council. It took the House of Lords half an hour to alter 200 to 500. In other words, to

obtain a Council in these villages with less than 500 population meant an agitation. Two Archbishops and 12 Bishops voted for and only 3 Bishops against this restrictive proposal, which was carried by 137 to 60.

"The Lords then (by 60 to 55) made District Councillors *ex-officio* members of the Parish Council. The desire for *ex-officio* members on elective bodies amounts to a passion with the Tory party.

"The success of the first night's work was, however, to come—on Lord Selborne's proposal as to meetings in schoolrooms. The Bill provided that when no other public room is available the schoolroom of any school in receipt of a Government grant could be used for meetings, (*a*) as to allotments, (*b*) by candidates for Parish Councils, and (*c*) for administrative purposes.

"This most reasonable provision was soon swept away. In vain it was pointed out that in many cases the only alternative to the schoolroom was the public-house. 'Well,' said Lord Salisbury, 'why not?' All this objection to the public-house was 'a mere piece of Puritanical humbug.' The Archbishop of Canterbury spoke on the same side. Two Archbishops and 13 Bishops voted in support of the public-house against the public schoolroom, and Lord Selborne's amendment was carried by 148 to 28.

"The second day in Committee was chiefly occupied with the allotment clauses, to which, as might be expected, the House of Landlords greatly objected.

"The Liberal plan for acquiring land compulsorily was this: The Parish Council made a representation on the subject to the District Council. The District Council inquired into the matter and reported to the Local Government Board, who were empowered to make an order for the purchase of the land without any application to Parliament.

"After Lord Winchilsea had substituted the County for the District Council, Lord Salisbury proposed that instead of a Local Government Board order, a Provisional Order requiring confirmation by Parliament should be necessary.

"He would not be a party to 'surrendering the guarantees which property has always had.' The Earl of Selborne suggested that it might be left to the County Council. This didn't suit Lord Salisbury at all—it was not difficult and expensive enough.

"'Let them think,' he said, 'of the case of Wales, and having seen something of the operation of the County Council in that principality, consider how far it would be fair to landowners and large farmers to trust their interests entirely to those bodies.'"

This merely meant, of course, that nearly all the Welsh County Councils have Liberal majorities. Equally, of course, Lord Salisbury got (by 150 to 54) his Provisional Order. It need hardly be added that a Provisional Order costs a great deal of money, and

involves much delay. It is because it is costly and dilatory that Lord Salisbury insisted on it.

"The clause was finally mutilated by the Duke of Richmond's motion striking out the words which secured that no compensation was to be paid on account of the land being taken compulsorily. This was carried by 114 to 21.

"The hiring clause was wrecked in a like manner, and thus the easily workable allotment clauses were altered in such a way as to make them practically useless.

"The third day in Committee was largely spent on the compounding householder question, but time was found for spoiling the Charities Clause. The sub-section embodying Mr. Cobb's amendment, and giving to the Parish Council the right of appointing a majority of the trustees for Parish Charities, was struck out by 80 to 19.

"Lord Harrowby completed what Lord Selborne had begun by getting a new clause carried (by 103 to 23), omitting from the Bill all charities, vested in a minister either of the Church of England or of any other denomination. This kept under the control of the Church a host of charities, which ought to be managed by the parish.

"Lord Salisbury refused to strike out the clause by which magistrates were to be no longer *ex-officio* Guardians. Lord Salisbury's reason reminds one of the incompetent judge of whom it was said that even when he was right, he was right on wrong grounds. Lord Salisbury threw over the magistrates —because they might in future be appointed for party reasons ! Now that the county bench is no longer to be a Tory landlord preserve, the Tories have to find some new mode of defending the sacred rights of property. It isn't safe any longer to look to magistrates who may not be Tories.

"The fourth day opened with the creation of some more *ex-officios*—County Councillors were to sit on Boards of Guardians, and Local Government Board nominees on the London Boards of Guardians were to be retained. More stumbling-blocks in the way of the elective system.

"On the Tory proposal as to the compound householder, even the Duke of Devonshire revolted, and Lord Salisbury had to give way with the best grace he could, after declaring that 'the principle of the Bill is to enable those who are not rated to rate those who are.'

"The Tories soon made up, however, for lost time. By 54 to 18 the clause was struck out by which Chairmen of District Councils were to be magistrates. By 107 to 26 the Lords cut out the clause by which the London Vestries were to be elected on a democratic basis.

"One of the excuses given for cutting out the reform of the London Vestries was that its effect was not sufficiently considered in the Commons. But this was a mere excuse. The Lords did

not hesitate to mangle clauses to which the House of Commons had given many days of discussion.

"Thus ended a week's work at wrecking, and such would have been the Bill if the Lords had been allowed to have had their way.

"The Liberal party, however, rejected all these amendments, and sent the Bill back to the Lords."

After much sending of the Bill backward and forward the Lords withdrew all the amendments to which the Commons seriously objected, excepting two: that 300 instead of 200 be the limit of population, above which a village was obliged to form a Parish Council, and that in the case of non-ecclesiastical charities where none of the trustees are elected directly or indirectly by the ratepayers, the Parish Council may only elect additional trustees as allowed by the Charity Commissioners. These were accepted under protest by the Commons.

It was in announcing the decision of the Government to accept these amendments under protest that led Mr. Gladstone, in the last speech he ever made in the House of Commons, to make his famous declaration of war against the House of Lords. He said:—

"The question now is, whether the judgment of the House of Lords is not merely to modify but is to annihilate the whole work of the House of Commons—work which has been performed at an amount and sacrifice of time, labour, convenience, and perhaps health, totally unknown to the House of Lords. . . . We are compelled to accompany that acceptance [of these amendments] with the sorrowful declaration that the differences not of a temporary or casual nature merely, but differences of conviction, differences of prepossession, differences of mental habit, and differences of fundamental tendency between the House of Lords and the House of Commons appear to have reached a development in the present year such as to create a state of things of which we are compelled to say that in our judgment it cannot continue. . . The issue which is raised between a deliberative Assembly, elected by the votes of more than six millions of people, and a deliberative Assembly occupied by many men of virtue, many men of talent, of course with considerable diversities and varieties, is a controversy which, once raised, must go forward to its issue. No doubt there is a higher authority than the House of Commons. It is the authority of the nation, which must in the last resort decide."[1]

[1] March 6, 1894.

In the same year, acting under the sinister guidance of Lord Balfour of Balcarres, the Lords made hay of the Scotch Parish Council Bill which the Government perforce accepted "under the pressure of superior numbers."

The jealousy of the House of Lords towards local governing bodies has been conspicuously demonstrated in its dealings with the London County Council. Although this body was brought into existence as the result of a measure passed by a Conservative Government, the Peers have ever acted as churlish obstructors of their own creation.

A whole chapter might be devoted to the dealings of the House of Lords with London. But their opposition to bringing the tramways across the bridges and along the Embankment is too recent to be forgotten, and as for their previous acts of hostility, it may be sufficient to quote here the words of the late Lord Hobhouse, himself a member of the House of Lords, although he had but slight respect for his fellow legislators. He says:—

"In the session of 1893 there arose in the House of Lords what is known as the Betterment question. The London County Council had for some years been endeavouring to levy a special impost on properties enhanced by the expenditure of London public funds. After some objectionable plans, they produced one, on which in the Council itself there was no dissent, and which was approved by large majorities in the House of Commons. Now for some reason or other the London Council has from the moment of its birth been the object of extreme animosity among the Conservative party and in the House of Lords. When this measure came before the Lords it was practically (the exact form may be passed over) thrown out without examination. Their formal plea was that such proposals ought not to be made in a private Bill. The arguments presented were denunciations partly of something which, in the absence of examination, was supposed to be the measure, and partly of the London Council itself. Before the question came on again I took pains to make a detailed statement of facts, from which I showed—first, that the House, refusing a proper examination by Committee, rejected the proposal under glaring misconceptions of its nature; and secondly, that its action was unusual, harsh, and productive of great public inconvenience. I further showed that

in the same session the London Council had come to ask for just five things beyond their ordinary requirements—viz., the opening of Lincoln's Inn Fields; permission to spend some money on important inquiries; a voice in the conservancy of the Thames; a more adequate voice in the conservancy of the Lea; and Betterment. All five were granted by the House of Commons, and all five refused by the Lords."

[For particulars as to the way in which the House of Lords has persistently opposed the efforts of the London County Council to improve the condition of the Metropolis, see Appendix, p. 249.]

CHAPTER IX

HOW THEY HAVE GOVERNED IRELAND

WHEN any attempt is made to estimate the exact influence which the House of Lords has had upon legislation, its advocates uniformly resort to a disingenuous defence to which the tactics of the Upper House lend some colourable pretext. Thus when the Peers are accused of having secured the defeat of this measure or of that, their apologists indignantly protest that this cannot be true because the House of Lords never rejected the Bill. Hansard is appealed to for proof that their lordships read the Bill a second time, and that no motion directly fatal is to be found in the journals of the House. Nay, they even are able sometimes to point triumphantly to the fact that the *coup de grace* was given to the Bill by the House of Commons on the motion of the authors of its being.

Upon this specious sophistry the recent action of the Peers in dealing with the Education Bill of 1906 casts a flood of light. The Peers read the Education Bill a second time, they passed it through all its stages, and the final vote which terminated its existence was given in the House of Commons. But every one knows that despite all that, it was the Lords who wrecked the Bill. They wrecked it by turning it inside out. They "reconstituted" it, as Mr. Asquith wittily said, as a man would reconstitute the Ten Commandments if he transferred all the nots from the negative commandments to the positive. They refused to reconsider the Bill when the

Commons restored it to its original shape and sent it back to be decently interred by the Ministry and the House of Commons. Yet an adroit apologist—some future Sir W. T. Charley—will succeed by verbal juggling and apparently conclusive quotations in convincing some future generation that the whole of the responsibility for the failure of a Bill abolishing tests and establishing public control over public schools lay at the door not of the Lords who wrecked it, but of the Commons who passed it.

Another favourite subterfuge of the advocate of the Lords who has to make the best of a very bad case, is to point to the fact that the foundering of Liberal measures in the House of Lords was not due to the hostility of the Peers, but simply and solely to the fact that there was not enough time for their consideration. It is, of course, obvious that if there had been no House of Lords the measures would have passed into law. The existence of the Second Chamber in this way acts as an automatic brake upon legislation. But the Lords are not content with the delay necessarily entailed by the duplication of machinery. They are experts in all the wiles of plausible obstruction. One of their favourite devices is to refer measures to a Select Committee, whose report is delayed until it is too late to proceed with the Bill this session. Another is so to transform the Bill by amendments in Select Committee that the other House has no time to consider them at this late period of the session. "Therefore," cries the Peers' apologist with delight, "it was the Commons, not the Lords, who threw out the Bill. It is not the Peers who defeat Bills, it is Father Time." It would be as honest to say when you have drowned a man by holding his head under water that you did not kill him—it was done by the sea.

When some particularly obnoxious amendment has been grafted upon a measure by the Peers, who have compelled the Government to accept it on penalty of losing the Bill, the submission of the Ministry is quoted as conclusive evidence that the guilt is chargeable to

them, not to the Lords. "You object to this amendment, do you?" they say. "But perhaps you do not know that Mr. Gladstone accepted it; that Lord Granville said civil things to its authors," and so forth. It would be just as reasonable to argue that a man recognised the right of a highwayman to the purse of his victim. "*Your* purse, do you say? Why, with my own eyes I saw you hand it to the gentleman on horseback, who wore a mask and was holding a pistol to your head. And so far from your denying his right to the purse, you addressed him quite civilly." Every Liberal Government who endeavours to carry a measure of reform through the Peers is in the position of a coachman on Hounslow Heath when Claude Duval or Dick Turpin rode up to the coach. Their passengers may escape with their lives, but at a price, which the highwaymen alone have the power to fix.

The old oft-quoted saying of the Tsar that Russia relied upon her two Generals, January and February, may be applied, with the alteration of the month, to the House of Lords. They rely upon their Generals, July and August. When the month arrives which is sacred to the slaughtering of grouse, the Lords never have time to discharge their legislative duties. The call of the moors is sounding in their ears. How unreasonable to expect them to postpone the rapturous delight of butchering birds to the discharge of the irksome and distasteful task of legislating for the needs of a nation. So year after year measures are sacrificed in order that the Peers may enjoy themselves after the custom of their kind. If only the choking of a measure by the Thugs of legislation postponed it just for a single year, the evil, although great, might be borne. But every tyro knows that the time of the House of Commons being limited, and the pressure of circumstances varying constantly, the rejection of a Bill one year often effectually prevents its reappearing for many a year. Liberal Ministries, with the best goodwill in the world, are often unable to spare time in subsequent sessions to pass the Bill defeated on the specious plea of lack of time through

all its stages in the House of Commons choked with pressing business. If all Bills dropped in one session for lack of time could be taken up at the same stage in the following session, the evil of obstruction in the Lords might not be absolutely intolerable. But as things are, the refusal to pass a Bill entails upon it the ordeal of running the gauntlet through the House of Commons, a process which may lead to its destruction by obstruction, and which will certainly lead to the obstruction of other Bills equally detested by the House of Lords.

Yet if any Bill obstructed out of existence by the Peers does not reappear for a term of years during which Liberal Ministries have been in power, the fact of its non-appearance is triumphantly adduced as evidence that public opinion was not ripe and that the inaction of the Liberal Governments was a conclusive confirmation of the wisdom of the Peers. The fact that the legislative capacity of the overburdened House of Commons is strained to the uttermost, that legislation is constantly in arrear, that the grossest abuses are allowed to continue from sheer lack of time in which to terminate their existence, that hosts of grievances remain unredressed, that the recommendations of scores of Royal Commissions and Select Committees are never acted upon—these things are largely due to the obstructive action, partly automatic, partly mischievous, of the House of Lords. To allow that House to plead that it was not to blame for delaying a necessary reform for years because it only rejected it once would be to allow the evil-doer to invoke the consequences of his own crimes to justify their perpetration.

The House of Lords is the great Baby Farming branch of our legislative establishment. It is conducted on much the same principles as those of the notorious institutions which flourish for the "making of angels." The proprietors are experts in the art of doing to death the unlucky infants confided to their care. They do not cut their throats. Neither do they poison them. They love the little dears so much that

they go to no end of expense in dosing them with paregoric. But somehow or other the children die. Of course it is a natural death, due to the reconstitution of the contents of their little Marys, due to spare diet and unnatural food. But infanticide! Oh, fie! The poor babes were rickety to begin with, and it was not the fault of their kind foster-parent if the regular diet of the establishment disagreed with them. Besides, they do not always die in their hands. They are sent home to the authors of their being, and if anything happens then, it is the parent, not the baby farmer, who is to blame. But now and then some hideous scandal occurs, like the rejection of the Education Bill within a year of a General Election, and then comes the coroner's inquest. That inquest has now been opened, nor is there much doubt as to the verdict of the jury.

These observations lead up to the consideration of the action of the House of Lords in its dealing with all political, social, and religious reforms, but especially with those which concern Ireland. If Ireland has been the despair and the disgrace of the Empire, it is largely due to the fact that in dealing with Irish questions the House of Lords has been, down to 1870, the predominant partner. England, Scotland, and Wales have been governed by the House of Commons, Ireland has been abandoned to the tender mercies of the House of Lords. In the contrast between the prosperity and content of Great Britain and the misery and discontent of Ireland we see the natural and inevitable result of the two systems. The power of the Lords to mar British legislation has constantly been limited by their dread of a turbulent agitation at their own doorsteps. But Ireland was too far away to trouble their aristocratic serenity. In Great Britain intimidation, the only real check upon the power of the House of Lords, can be, and has been, and will be, freely and effectively employed to bring the Peers to heel. But all Ireland might be reeking with incipient revolt, and it would hardly ruffle a rose-leaf under the head of an English peer who had no estates in Ireland. Even then he would

not feel it much. The famous remark of the nonchalant absentee who wrote to his tenants, "If you think you can intimidate me by shooting my agent you make a very great mistake," sums up the situation exactly. The Irish cannot intimidate the Peers, or rather they could not until Michael Davitt discovered that Rent was their Achilles' heel. Hence Irish reforms are never made until it is too late for redress to remedy wrong or restore content.

The difference between having to deal with a House of Lords in your own country and a House of Lords in another country was strikingly illustrated by the different way in which the Irish and the British Lords dealt with the question of Catholic emancipation. In 1792 and 1793 the Irish House of Lords passed almost unanimously measures which admitted the Roman Catholic peasantry to the Parliamentary suffrage, and to juries, and relieved them of all property qualifications. But when the Union was carried and the control passed into the hands of the British House of Lords and of a House of Commons practically nominated by the Peers, there was no such readiness to recognise the justice of the Catholic claims.

The Irish question is peculiarly a Catholic question, for eight Irishmen out of ten belong to the Roman Church. Irish discontent was the natural result of Protestant intolerance, but the ascendancy of an alien sect was jealously maintained by the Lords. When Lord Cornwallis reported to Mr. Pitt that he could carry the Union, but not the participation of the Roman Catholics in all the privileges of the Protestants of Ireland, Mr. Canning exclaimed, "Then if I were you, I would refuse both; I would not have one without the other." Mr. Pitt rebuked Mr. Canning for his intemperance; but Earl Russell, nearly fifty years later, after long experience of the results of taking one without the other, declared from his place in Parliament, "I own that in reflecting upon what then passed I very much doubt whether the youthful judgment of Mr. Canning was not wiser than the mature decision of Mr. Pitt."

The House of Lords did its best or its worst to defeat the recognition of the rights of the Roman Catholics. One memorable instance was typical of all that followed. Catholic Emancipation, regarded by Mr. Pitt as one of the essential conditions of the Union, was postponed until concession lost all its virtue. The responsibility for this, no doubt, must be shared with the House of Commons, which in those days was but little better than the creature of the aristocracy. But in 1825 even the unreformed House of Commons could no longer resist the claim of the Catholics to be admitted within the pale of citizenship, and the Catholic Relief Bill was carried by a majority of twenty-one. "Even in 1825," said Lord Macaulay, speaking nineteen years after—

"it was not too late. The machinery of agitation was not yet fully organised; the Government was under no strong pressure, and therefore concession might still have been received with thankfulness. That opportunity was suffered to escape; and it never returned."

How was it suffered to escape? By the action of the House of Lords. They rejected the Relief Bill by a majority of forty-eight. Three years later the House of Commons again sent up the Bill, which admitted eight-tenths of the population of Ireland within the pale of the Constitution. Once more the House of Lords rejected the Bill. In 1829 the concession refused to justice was made "reluctantly, ungraciously, under duress, from the mere dread of civil war." "The Irishman," said Macaulay, "was taught that from England nothing is to be got by reason, by entreaty, by patient endurance, but everything by intimidation. That tardy repentance deserved no gratitude and obtained none." The House of Lords, by its repeated rejection of the Relief Bill, and not less by its sudden capitulation, had led the Irish to believe that "by agitation alone could any grievance be removed." The lesson has not been forgotten, even yet.

The attitude of the House of Lords in relation to the administration of Ireland has been in strict keeping

with the opposition which it has uniformly offered to all recognition of the claims of the Catholics. It is significant that the first popular movement for the abolition or reform of the House of Lords since the Reform Act was headed by O'Connell, and based chiefly upon the impossibility of securing from the Second Chamber any measure of justice for Ireland. O'Connell declared in 1835, in his place in Parliament, that in dealing with Ireland the Lords "treated everything of conciliation or justice with contumely and contempt," and his language, although strong, was borne out by the facts. A retrospect of the contribution which the Peers have made to the government of Ireland brings out the fact that the function of the Second Chamber for half a century has been to emphasise every demand for repression, and to mutilate, postpone, or reject every measure extending to the Irish the rights and privileges enjoyed by their fellow-subjects in England and Scotland. No small portion of the difficulties of Irish government has arisen from the inability of the English people to secure the acceptance of just laws for Ireland by the House of Lords until long after the opportunity had passed when concession might have been efficacious in removing discontent.

"Why are the Irish discontented?" once asked O'Connell in the House of Commons. "Because," he replied, "for seven hundred years England has governed them by a faction and for a faction." To secure the perpetuity of that mode of government has been a constant preoccupation of the Peers. They have at least secured a perpetuity of discontent.

After the Emancipation Act was passed it was some time before its spirit was recognised in the administration. For years after it received the Royal assent the Roman Catholics were virtually excluded from the government of Ireland. To this day the justices of peace in Ireland are selected chiefly from the minority of the population, but in 1833 there was not in all Ireland a single Catholic judge, grand juror, inspector,

or sub-inspector of police. There was only one Catholic sheriff. The overwhelming majority of the unpaid magistrates were Protestants. The towns were ruled by Protestant cliques, corrupt and bigoted. "The favourable or the hostile mind of the ruling power," said Burke, "is of far more importance to mankind for good or evil than the black letter of any statute." The mind of the ruling power was hostile to the Irish Catholics, and every attempt to give effect to the spirit of the Emancipation Act was opposed by the House of Lords. In 1839 this opposition assumed the shape of an informal vote of censure, which led to the counter-motion in the Commons, in support of which Earl Russell made a speech on the Government of Ireland which might be read with advantage by many of our statesmen to-day, so plainly did the old Whig lay down the principle that "nothing firm or stable was possible in Ireland unless the Government secured the good-will and confidence of the Irish people." But the Lords did not confine themselves to censuring the Executive for attempting to govern Ireland "according to the wishes of the people of Ireland." "Every Bill," said Macaulay in 1844, "framed by the advisers of the Crown for the benefit of Ireland was either rejected or mutilated." That Macaulay did not exaggerate may be seen by a reference to Hansard.

The conduct of the Lords may be illustrated by their dealings with the Church Establishment. In 1833 the Government of the day passed the Church Temporalities Act; but, instead of appropriating the surplus revenues of the alien establishment to the furtherance of purposes approved by the majority of the nation, the Appropriation Clause was abandoned from fear of the Lords. The Tithe War of fifty years ago had brought Ireland to the verge of anarchy. Coercion of the most rigorous type had been tried and found utterly wanting. In 1834 the Commons passed a Tithe Bill for Ireland. O'Connell declared on its third reading that the Bill "would form a new epoch in the history of the Government of Ireland. This was the first great step towards

a conciliatory system in Ireland. He hoped no attempt would be made to blast the first step made towards the pacification of his country." Six days later the Bill was summarily rejected by the Lords, by a majority of 189 to 122.

The next year the Tithe Bill was again sent up to the Lords. They struck out the clause appropriating a portion of the ecclesiastical revenues to the religious and moral instruction of all classes of the community, thereby securing the abandonment of the Bill. In 1836 the Commons a third time sent up the Bill to the Lords, and the Peers again defeated it by the elimination of the Appropriation Clause. In 1837 the Tithe Bill was read a second time by the Commons, but the death of the king saved the Lords the trouble of rejecting it. In 1838 the fifth Bill dealing with the question of Irish Tithes was introduced into the House of Commons. To secure its acceptance by the House of Lords, the Government assented to the elimination of the Appropriation Clause. The alien Church was to keep all its endowments; not one penny was to be devoted to the education of the people. The Lords triumphed, and the Church of Ireland was saved—for a time.

The sequel of the victory was not seen for thirty years. In 1868 the House of Lords rejected Mr. Gladstone's resolutions demanding the disestablishment and disendowment of the Irish Church. It was their last effort. In the following year the second reading of the Disestablishment Bill was carried in the Upper Chamber by 179 votes to 146, and the Establishment which the Peers had refused to adapt to the wants of the nation in 1838, was swept away altogether with their assent in 1869.

The way in which the House of Lords dealt with the subject of the Irish franchise affords a good illustration of their general policy. When Roman Catholic Emancipation was wrung from the House of Lords in 1829, the concession was only made on condition that the forty-shilling freeholders should be disfranchised, a stipulation which was insisted upon before the Bill was

accepted by the unreformed House of Commons. Without that stipulation even the dread of civil war would not have overcome the objection of the Peers and their nominees in the Lower House to admit their Catholic fellow-subjects to the privileges of citizenship. The spirit of jealous antipathy to every extension of the franchise in Ireland has been one of the distinguishing characteristics of the Second Chamber. The Government of Earl Grey, after passing the Reform Act of 1832, lowered the suffrage in Ireland; but, so far from treating Irishmen as Englishmen, the result of the Irish Reform Act was that only 5 per cent. of the adult males in Ireland in 1839 possessed the franchise. In England the percentage of voters was nineteen, or nearly four times as great as in Ireland. In 1841, and again in 1848, English Ministers admitted the scandal of the excessive limitation of the Irish electorate, but nothing was done. The Bills were dropped. With the fate of the Corporations' Bills fresh before them, Ministers naturally did not care to push forward measures certain to be rejected in another place. It was the experience of many years which led O'Connell to tell the Commons in 1839, "Though a majority in this House may be disposed to do us something like justice, all your efforts will be frustrated by the other branch of the Legislature."

In 1835 the House of Commons sent up to the Lords a measure simplifying the Irish registration system. The indirect effect of this was considerably to increase the numbers of voters in Irish constituencies, by relaxing the reactionary stipulations of 1829 and 1832. The peers threw it out by a majority of exactly three to one, 81 voting against it and only 27 in its favour. Forty-five years later another Irish Registration Bill, intended to secure the same object as that of 1835—the assimilation of the English and Irish system—was thrown out by a vote of 42 to 30. The influence of the Peers has always been thrown in favour of restriction. This tendency appears in small matters as well as great. In 1837, on the eve of the General Election, a

Bill was sent up to them by the Commons to enable returning officers in large towns to increase the number of polling-places, for in Ireland the limited number of polling-places, coupled with the absurd oaths and formalities insisted upon by the law, involved the practical disfranchisement of no inconsiderable proportion of the very limited number of electors. It was rejected by the Peers by a majority of 74 to 36.

The condition of the Irish electoral system, which the Lords repeatedly refused to permit the Commons to reform, may be inferred from the following extract from one of Mr. Bright's speeches in the session of 1848: "In the whole of Ireland there were not 60,000 electors —probably not 40,000—among a population of 8,000,000. In the city of Dublin there were 21,000 names on the electoral roll, and perhaps not more than 7,000 of them entitled to vote. The registration took place once in eight years. The elector must pay at least six rates before he could register his votes, some said ten; and he had been informed on good authority there were no less than fifteen of one sort or another." Year after year the House of Commons admitted the necessity of a change; but it was not till 1850 that the franchise was reduced and the registration reformed. The Bill sent up from the House of Commons proposed to fix the franchise at an £8 ratal qualification. At that time the percentage of electors to adult males, which in England was 28, in Wales 32, and in Scotland 25, was in Ireland only 2. The £8 rating franchise would have added 264,000 electors to the register. The Lords struck it out, and substituted for it a £15 rating, reducing the numbers to be enfranchised to 120,000. To save the Bill the Commons consented to fix the limit at £12, which enfranchised 172,072. The compromise excluded 90,000 Irishmen from the privileges of citizenship. A vigorous attempt was made to restore the £15 rating by the Lords. Sixty-two voted in favour of Lord Stanley's proposition to that effect, and fifty-six against it. Proxies, however, turned the scale, and the £12 compromise was accepted by 126 to 115. The clause

establishing a self-acting method of registration was struck out by the Lords, restored by the Commons, and reluctantly assented to by the Upper House.

Fifty years ago O'Connell and the Irish popular party demanded the English franchise. In 1844 even Sir Robert Peel declared his conviction that "Great Britain and Ireland should be placed upon the same footing and upon an equality as to civil and political liberties." But as the net result of half a century's struggle for representation the Irish borough franchise was fixed in 1867 at £4 rating, instead of household suffrage. Of the Irish borough population only 1 in 18 had a vote. In England the proportion is 1 in 7. Even in English counties it was 1 in 14. It was not till 1884 the equalisation of franchise of the two countries was accomplished.

Municipal reform in Ireland was not less strenuously resisted by the Peers than the reduction of the franchise. In 1835 the scandal occasioned by the corrupt, unrepresentative character of the Irish corporations led the House of Commons to demand that the principle adopted in England should be extended to Ireland. The Lords in 1835 had consented to reform the whole of the English corporations; but when, in the latter year, they were asked to mete out to Ireland the same measure that they had meted out to England they refused. The Irish Municipal Reform Bill passed through all its stages in the Commons. It failed to make its way through the Lords. In 1836 the Commons again passed the Bill through all its stages, only to have it mutilated out of all recognition by the Lords. One hundred and six out of its one hundred and forty clauses were struck out, and the Bill was abandoned. In 1837, for a third time, the Commons sent the Bill up to the Lords. The Lords adjourned its consideration from May to June, and then again from June to July, when the Bill dropped. The Commons in 1838 sent the Bill up a fourth time, hoping that in exchange for the abandonment of the Appropriation Clause the Peers would pass the Municipal Bill. They were disappointed. The Lords raised the franchise from £5 to £10, and

restored the rights of the freemen, alterations that led to the abandonment of the Bill. In 1839 a fifth attempt to secure municipal government in Ireland met with the same fate, although the Government offered to accept an £8 franchise. "Give us the English municipal franchise!" was the cry of O'Connell; but not even the House of Commons dared to place all Irish householders in towns on the burgess roll. The House of Lords in 1840 insisted upon fixing the Irish municipal franchise as high as £10, and, wearied out by six years' fruitless attempt to secure English privileges for Irish municipalities, the House of Commons gave way, and nine-tenths of Irish borough householders outside Dublin remained down to 1884 without that voice in the municipal government of their own town which they enjoyed as a matter of course when they migrated to an English or Scotch borough.

Earl Russell, speaking of the pledges given by England and Ireland when the Union was concluded, said:—"The promises which were made at the time of the Union were that Ireland should be placed upon an equality with England, and that she should be governed upon the same principles and should enjoy the same rights and privileges." They enjoyed equality when the law entailed disabilities, not when it conferred privileges. Take the penal laws, for instance, which, although common to the whole country, chiefly affected Ireland, where the immense majority of the population were Catholics.

The Penal Laws remained unrepealed till 1844. The action of the Lords in that year illustrates the difficulty—the permanent difficulty—of doing justice to Catholics through such an instrument as the House of Peers. The Penal Laws Repeal Bill of 1844 was introduced to the Lords in July. The measure repealed the whole of the Acts which made it penal for a Roman Catholic to attend mass and high treason to recognise the spiritual supremacy of the Pope, which forbade Catholics to bear arms or to own a horse valued at more than £5, which punished Catholics who taught children to spell without

a licence from a Protestant bishop, and sentenced to transportation for life those who administered the vows of any monastic Order to a subject of the Queen, and which fined Catholics who did not attend Protestant service, and forbade the use of sacerdotal vestments outside the Catholic chapels. When it came before the House of Lords it was so vehemently opposed by the Bishop of London—the bishops have always been worse than the temporal Peers—that the Lord Chancellor was compelled to remodel the measure by leaving out all "the objectionable clauses." Even this did not remove the objections of the Bishop; but the expurgated Bill was allowed to pass into law. The clauses which were thus sacrificed to propitiate the Peers left unrepealed the old Acts forbidding Catholics to teach without a licence from a bishop of the Establishment, to wear sacerdotal vestments outside church, and to educate their youth as Jesuits, as well as those prohibiting members of any monastic Order setting foot within the Queen's dominions without a licence from the Secretary of State.

These laws, it may be said, were dead letters, although they might be put in motion by any informer; but the less vitality they possessed the less excuse had the House of Lords for perpetuating in the Statute Book these mouldering monuments of the bigotry of the sixteenth century.

Even that apology, however, fails in the case of the Marriage Laws. In 1835 the Commons proposed to repeal the law which permitted any scoundrel married by a Catholic priest to repudiate his wife when he pleased, by proving that he had attended a Protestant place of worship within twelve months of his marriage. This prostitution of the marriage service for purposes of seduction in the name of Protestantism was maintained by the Lords by a majority of 42 to 16. Even the House of Lords, however, could not long resist the demand for a removal of this odious "privilege," and after a time they annulled their vote by passing a Bill similar to that which they rejected in 1835. The spirit

which prompted the vote in favour of the Penal Laws long lingered in the Upper House.

Thirty years after the vote on the Marriage Bill, Lord Derby secured the rejection, by a majority of 84 to 63, of the Bill relieving Roman Catholics from the oath of abjuration imposed on their representatives in Parliament by the Act of 1829. It was only an insult, but even an insult could not be surrendered without a pang. The same spirit of intolerence was even more painfully displayed in matters concerning the administration of justice. In 1839 the Lords, after long and angry debate, solemnly passed a vote of censure on an Irish judge, Sir M. O'Loghlen, because he had given directions that no juror should be set aside merely on account of his political and religious opinions.

The catalogue of the misdeeds of the Lords in thwarting the redress of Irish and Catholic grievances might be extended to almost any length, but considerations of space forbid any attempt to present more than the salient heads of the indictment which history brings against their system of administering Ireland in opposition to the wishes and ideas of the Irish people.

A whole chapter might well be devoted to a statement of the damning record of the case against the Peers for their treatment of the Irish Land question. The House of Landlords has, from first to last, legislated in its own interests. In their legislation for the tenants it was as if foxes were legislating for the welfare of the geese. This characteristic is the distinguishing note of all their actions, from the beginning of last century down to the year 1906, when they mutilated the Town Tenants' Bill to such an extent that nothing but the firmness of Mr. Bryce and the exasperation of the House of Commons induced the Lords to swallow their own amendments and pass the Bill substantially as it was sent up to them. The Irish Land question is one of such intricacy and complexity that it would only weary the reader to pass in review all the obstructive acts of the Peers from the day when their policy of delay defeated Mr. Brownlow's Bill

for the drainage of bogs and the reclamation of waste land, in 1830, down to the present day. But there are two great landmarks which can never be passed over, even in the most cursory survey of the history of the Irish Land question.

In its essence the Irish Land question is, whether the Irish landlord shall or shall not be allowed to steal the property of his tenant. This was done sometimes by confiscating their improvements on the termination of their tenancy, at other times by raising their rent upon the improvements made by the tenant. The first attempt to prevent the former form of robbery was recommended by the Devon Commission as far back as 1845.

In 1843 this Commission was appointed; and after two years' investigation of the Irish Land question, it reported strongly in favour of legislation to secure the tenant compensation for his improvements. In 1845 Lord Stanley brought in a Bill, based upon the report of the Devon Commission, giving the tenant compensation for improvements made with the consent of the landlord, or even without his consent, if they had been sanctioned by a Commissioner of Improvements, who would also be charged with the duty of awarding fair and equitable compensation in case of eviction. The Bill was read a second time on June 24th, in spite of the vehement protests of the Irish landlords, and referred to a Select Committee. This Committee practically insisted upon turning the Bill inside out. On July 15th Lord Stanley abandoned the Bill, in consequence of the strong feeling manifested both in Committee and in the House, and the difficulty of reconstituting it in the time available for the purpose. Thus a Bill introduced by a Conservative Government, based on the recommendations of a Commission which reported that "no single measure can be better calculated to allay discontent and to promote substantial improvements throughout the country," was unable to make its way through the Lords, and for twenty-five years Irish agriculturists had to put up with a land system which the Devon Commission de-

clared inflicted upon them "greater sufferings than the people of any other country in Europe have to sustain."

In 1870 Mr. Gladstone made his first attempt to give effect to the recommendations of the Devon Commission. He had a long, tough battle with the Lords, who succeeded in mutilating the Land Act, although they dared not throw it out. One of their mutilations brought with it a grave Nemesis.

The Bill when sent up to the Lords contained the proviso that, although the claim for compensation for disturbance should be voided when the tenants were ejected for non-payment of rent, the Court should be empowered on special grounds to award compensation even in those cases. The Lords struck this proviso out. Mr. Gladstone declared that the stipulation was necessary, and the House of Commons reinstated it by a vote of 248 to 171. The Duke of Richmond and Lord Cairns pointed out that the effect of the clause would be that the Court would be empowered to decide against allowing a landlord to eject a tenant without compensation for disturbance if the latter could plead the failure of crops as a special ground for his inability to fulfil his obligations. Lord Granville and Lord O'Hagan in vain urged the importance of giving the Court power to soften the oppression under which the peasant might be placed, but they appealed in vain. The Lords decided to insist upon the amendment, and the Bill was sent back to the Commons. Mr. Gladstone said the Government attached great value to the clause, but as the Bill might be lost by insisting on it he yielded, and at a conference between Lords and Commons "special causes" was struck out, and it was decreed that compensation could only be awarded in cases of eviction for non-payment of rent when the Court certified that the non-payment was due to the fact that the rent was exorbitant. He was reluctantly compelled to sacrifice the clause as it stood to avert a rupture between the two Houses. The House of Commons gave way, and the Bill became law without the phrase to which the House of Lords had objected.

The consequences of this acceptance of the Lords' amendment were not fully revealed till the session of 1880. A failure of the harvest for three years in succession created one of the special grounds contemplated by the vetoed clause for interposing a judicial check upon the exercise of the landlord's right to evict the tenant without compensation. To remedy the injustice of allowing the landlord to use a famine as a means of effecting a clearance, the Government made an attempt to restore the clause abandoned in 1870 by the Compensation for Disturbance Bill of 1880. The Bill passed the Commons, but in the Lords, although the Peers were warned that its rejection would bring Ireland within a measurable distance of civil war, it was rejected by a majority of 282 to 51. To that vote can be traced the excessive exasperation of the tenants against their landlords which enabled Mr. Parnell to make the Land League supreme in Ireland.

Mr. Forster, who saw all too clearly the terrible consequences of the action of the Lords, blurted out in his rough way the indignation which he felt at the suicidal action of the Peers, and still more at the callous cynicism which led them to justify their action by the hollow pretext of want of time to consider it, the lateness of the session, &c. He said :—

"This was one of the matters in which especially *noblesse oblige*, and the House of Lords ought not to allege personal inconvenience to prevent Bills sent up from that House at any time of the session being thoroughly considered. . . .

"They could not forget—at any rate the country could not forget—those two facts: first, the Commons were the hardest-worked law-makers in the world; and secondly, that on the other hand probably there was no assembly of law-makers with so much power and so little personal labour as the House of Lords. They must not forget that they were the representatives of the people, and that the power which the Lords had was simply owing to an accident of birth."[1]

[1] "Forster's Life," vol. ii. pp. 248–9.

The Lords smiled superciliously as is their wont, and the storm burst. Next year, when the Irish Land Bill went before the Peers, they did not dare to reject it. They read it a second time, and then proceeded to mutilate it. The Commons promptly rejected the Lords' amendments. The Lords reinstated most of them, and then began a struggle between the two Houses. The situation was so desperate, however, and Mr. Gladstone so firm, that most of their amendments were rejected. The only considerable blot that they made in the Bill was the rejection of Mr. Parnell's clause staying evictions pending the application for a judicial rent. But if they had not been overruled, the Bill would have been utterly spoilt. As it was, nearly all their alterations were in the wrong direction. The Bill failed because it was not strong enough. All their efforts were devoted to weaken it; as a consequence, it has needed repeated amendment.

This was strikingly illustrated the very next session. The Lords had struck out the only clause staying evictions pending the application for a judicial rent. In 1882 the great and alarming increase of evictions compelled the Government to bring in the Arrears Bill, for the protection of tenants who could not pay their arrears of rent run up in the years of famine. The House of Lords introduced an amendment giving the landlord a right to veto the tenant's application for remission of his arrears, and further mutilated the Bill. Mr. Gladstone stood firm, and rejected the Lords' amendments. Lord Salisbury wished to throw the Bill out altogether, but he was deserted by his followers, and once more a measure of healing was passed for the Irish tenant in spite of the protest of the majority of the Peers.

In 1894 the Lords rejected the Evicted Tenants' Bill sent up from the House of Commons with the object of saving the victims of the bad season of 1886, when it was admittedly impossible to pay rent in full, but for whose evil case the law provided no remedy.

It only remains to complete this very rapid and imperfect survey of the way in which the House of Lords has handled the Irish question, by a reference to the last occasion in which they thwarted the wishes of the majority of the Irish people by rejecting Home Rule.

Mr. Gladstone introduced his first Home Rule Bill in 1886. It was defeated in the Commons, and in the General Election of the same year the Home Rule Ministry was overthrown. But during the six years' administration of Lord Salisbury which followed, the question of Home Rule was discussed incessantly, and made the test question at bye-elections. It was the question on which the General Election of 1892 mainly turned. Mr. Gladstone, being then returned to power, brought in his second Home Rule Bill in 1893. It was carried through the House of Commons by a majority of 43 on the second reading. On September 8, 1893, it was defeated in the Lords by a majority of 419 to 41 votes.

The action of the Peers on this occasion is not open to the same severity of censure as that to which their conduct on other occasions has justly exposed them. They disregarded the declared wishes of a four to one majority of the representatives of Ireland, it is true. But their action was approved by a majority of the representatives of Great Britain. Hence, when an appeal was made to the constituencies in 1895, their action was condoned, and the Unionists governed the Empire for the next ten years.

With the exception of the rejection of the Home Rule Bill of 1893, the House of Lords in its Irish legislation has thwarted not only the will of Ireland, it has set itself in opposition to the wishes of the majority of the English, Scotch, and Welsh representatives. The result, the tragic result, is written in the story of Irish discontent. The moral was pointed out seventy years ago, but we have not yet taken it to heart.

Addressing the ministerial majority which represented the English people in 1837, Mr. Roebuck said :—

"You have tried on your knees to obtain justice for Ireland . . . and what has been your reward? Contempt and scorn. Your enemies have trampled upon your measures; they have contemptuously delayed, changed, or rejected them as the humour of their insolence suggested. . . . What ought you to have done? What you did not dare to do. You should have boldly told the people of both countries that justice could not be gained by either while an irresponsible body of hereditary legislators could at will dispose of the fortunes and the happiness of the people. We have laboured in order to relieve the miseries of Ireland, and if possible to heal the wounds inflicted by many centuries of misrule. We have not advanced one single step. Every year sees our labours rendered abortive by the headstrong proceedings of the House of Lords."

And as it has been so it will be until we clip the claws and draw the teeth of the hereditary enemies of the Irish people.

CHAPTER X

MISCELLANEOUS MISDEEDS

HAVING dealt with the chief offences of the House of Lords under the leading counts in the popular indictment there remain still to be noticed, although in the most cursory fashion, some of their miscellaneous misdeeds and misdemeanours which, although often of the first importance, do not lend themselves easily to classification.

The first to be noticed is the attempt of the Peers to encroach upon the prerogative of the Crown and the privileges of the Commons. So far from accepting the subordinate position to which they were reduced by the catastrophe of 1832, they have persistently, stealthily, and not altogether unsuccessfully endeavoured to regain some of their forfeited power. They have attempted to usurp the Royal prerogative by attempting to dictate the proper moment for a dissolution of Parliament, and they have defied the authority of the Crown in refusing to allow it to exercise its ancient and heretofore unquestioned right to create life peers. Writing about the action of the House of Lords in the case of the Wensleydale life peerage, Edward A. Freeman, the eminent historian, whose authority is second to none on such a question, used the following emphatic language :—

"The right of the Crown to create peers for life only had never been surrendered, never abolished, never doubted. But it

had gradually gone out of use. It was at last exercised again in our own time, or more truly, an attempt which was strangely unsuccessful was made to exercise it. The circumstances under which it was made were highly instructive. They show to what a height of presumptuous aggression the newer element in the House, the hereditary element, had grown. I refer to the peerage granted to Lord Wensleydale. That eminent lawyer was, according to a crowd of ancient precedents, created a peer for life only. He had no children, so that the question was not a practical one; it was simply that this occasion was chosen to assert an ancient and wholesome principle. But with matchless impudence the hereditary peers, in defiance of precedent, in defiance of law, in gross contempt of the lawful authority of the Crown, refused to let Lord Wensleydale take his seat in the House. And they were led by newly created lawyers who assuredly knew that they were acting against law. . . . The Crown yielded its ancient and undoubted right; Lord Wensleydale, lawfully summoned to Parliament, was shut out from his seat till the new patent was granted securing the seat after him to the descendants who were not in being.

"Presently, be it remembered, the hereditary peers had to submit to receive colleagues whose blood had not been ennobled. In full agreement with ancient law and usage official law lords not holding hereditary peerages but truly representing the ancient Witan of the land now sit and vote in the House which refused a seat to Lord Wensleydale. The grotesque pride of the hereditary peers has surely received a little shock by their presence."[1]

They have encroached upon the privileges of the Commons in their repeated attempts to meddle with questions of finance. The first and most flagrant instance was their refusal to pass the Bill repealing the paper duty in 1860. If Mr. Gladstone and Mr. Bright had not been in the House of Commons, the Lords would have succeeded in establishing a precedent fatal to the most ancient fundamental privilege of the House of Commons. Lord Palmerston, then Prime Minister, was more than inclined to betray his trust. But Mr. Gladstone retorted by combining for the future all the financial proposals of the House of Commons in one Bill, so that the Lords could not reject them without dislocating the whole administration of the country. Speaking at Edinburgh, September 27, 1893, on the

[1] "Subjects of the Day" (The House of Lords), pp. 15, 16.

consequences of this change of procedure, Mr. Gladstone said :—

"The House of Lords during those two-and-thirty years has been absolutely excluded from all influence whatever upon the finances of the country. It was an abridgment of their province, and that province need never have been abridged if they had acted in it with discretion. But they chose to be attracted by circumstances of momentary difficulty, which they thought they could turn to their account, and the result has been the permanent loss and destruction of a cherished and an important prerogative."

That was Mr. Gladstone's opinion. It was not the opinion of Sir W. Anson. It certainly was not the opinion of the Peers themselves. When Sir W. Harcourt's Death Duties Bill came up to the House of Lords, Lord Salisbury denied that the Peers were constitutionally compelled to give a formal assent to money Bills. Lord Salisbury quoted as a precedent the fact that Lord Derby had moved an amendment to a money Bill which, however, was rejected by a majority of 32. In the discussion that followed, Lord Herschell, then Lord Chancellor, drew attention to the very important fact that the Judicial Committee of the Privy Council had formally decided, and Her Majesty in Council had approved the decision that the House of Commons has the sole gift of all aids and supplies and the undoubted and sole right to direct, limit, and appoint the Bills of aid and supply, the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the House of Lords. The question arose from a dispute between the two branches of the Queensland legislature, which both agreed to refer the question for settlement on the common ground that they held and discharged relatively to one another positions and functions analogous to those of the House of Lords and House of Commons.[1]

This judicial decision is important at this crisis, and should not be lost sight of.

[1] "The Liberal Platform," p. 171.

The Lords have, notwithstanding, made repeated attempts to change and alter the conditions, limitations, and qualifications of money grants.

When the Parish Council Bill was before the House of Lords, in 1894, the Peers ventured upon an encroachment of the privileges of the Commons by amending the clause throwing the expenses of the Parish Council and of the parish meeting on the poor rate, so as to compel the Parish Council to levy its own rate. The Speaker said: "I think in this case an infringement of the privileges of the House has been committed;" and he added that if the Minister in charge of the Bill had not risen, "I should, as the guardian of the privileges of this House, have asked the House to pass these amendments over as an infringement of the privileges of this House."

The most flagrant recent instance was the amendments made in the Education Bill of 1902, by which the Lords imposed the cost of providing for the wear and tear of denominational schools upon the rates. A less subservient House of Commons than that elected in the Khaki delirium of 1900 would have made short work of this usurpation. As things were the Commons waived their privilege and accepted the amendment. In the Education Bill of 1906, the Lords' amendments were many of them trespasses upon the privileges of the Commons and would have been so ruled out by the Speaker had they been discussed in detail instead of being rejected *en bloc*.

The second great blot on the record of the Lords is that, although from their position and their pretensions they should have been a restraining influence when the Empire was threatened with unjust and unnecessary war, they have been just the contrary. The House of Commons, which is exposed to the full blast of the passions of a bellicose populace, has been on the whole less eager for war than the House of Lords. The record of the Peers in this matter is very bad, as the following entries show. In 1840 a motion condemning the Opium War was negatived without

a division. The Lords went headlong into both the Crimean War and the war in South Africa. In this they were no worse than the Commons, although there were some voices in the Lower House raised against both of these national crimes. But in 1857 when the House of Commons condemned the Chinese War, the House of Lords refused to censure the Government that made the war by a majority of 146 to 110; and in 1864, when the House of Commons refused to censure the Government that refused to make war against Germany in aid of Denmark, the House of Lords carried a vote of censure by 177 to 168 votes.

The statesmanship of the Upper House, and its keen appreciation of the forces which were remoulding Europe, are aptly illustrated by that vote for war with Germany. Not less characteristic in the same year was their rejection of Lord Grey's resolution deprecating war with Japan, and appealing for friendly intercourse with that nation. In 1878 they refused to censure the wanton war waged by Lord Beaconsfield in Afghanistan, and in the following year they refused to condemn the Zulu War by 156 votes to 61. When, after the fall of Khartoum, Mr. Gladstone's Government decided to desist from any further attempt to crush the Mahdi, the Lords passed a vote of censure upon his Ministry by 189 votes to 68.

The House of Commons has sometimes been for peace. The House of Lords has always been for war. Yet, when in 1872 Mr. Gladstone took the first indispensable step in Army Reform necessary to make our army efficient for war, by abolishing purchase, the Peers hung up the Bill and only desisted from their opposition when purchase was abolished without their leave by Royal Warrant.

Another evil blot upon the escutcheon of the House of Lords has been its indifference to the humaner tendencies which have transformed modern society.

At a time when our penal code was the scandal of the world for the indiscriminating barbarity of its punishments, the House of Lords was the resolute and

unbending advocate of its worst atrocities. When, in 1810, even the unreformed House of Commons passed a Bill abolishing capital punishment for thefts of 5s. from shops, the Lords rallied round the gallows and rejected the Bill. Next year they did the same thing. The hangman had no stauncher friends than the Peers, temporal and spiritual joining hands in the holy work of keeping up the number of his victims. Two years later, being still unrepentant, they again threw out the Bill, and again in 1818. When in 1820 they at last consented to abolish capital punishment for theft, they only did so on condition that if the goods stolen exceeded £10 in value the thieves should swing as before. They kept up their defence of the gallows till after the Reform Act of 1832. Never do they seem to have taken the initiative in ridding England from a penal code of savage atrocity. Their only part was to check, thwart, postpone, and impair the attempts of the reformer to humanise our laws.

This callous indifference to the promptings of humanity has shown itself in many other directions. In 1819 they refused to regulate the labour of the miserable little slaves employed in sweeping chimneys. Thirty years later they refused to abolish the cruel and unnecessary practice of sending children of tender age to sweep the chimneys. They opposed the earliest efforts to prevent cruelty to animals at the beginning of the century. In 1883 they refused to suppress pigeon shooting. Four years before they threw out a Bill prohibiting vivisection by 97 votes to 16. They refused to condemn the introduction of Chinese labour into the mines of the Rand; and they have seldom betrayed any sympathy with the humanitarian movements which have appealed so powerfully to the generous instincts of the common people.

The House of Lords, in 1898, tried to deprive the conscientious objector to vaccination of the liberty promised him by the Unionist Government and the House of Commons. They struck out the clause by 40 to 38. The Commons reinstated it by 129 to 34.

Thereupon the Lords, being strongly adjured by Lord Salisbury, reversed their previous vote by 55 to 45.

It might be expected that such an assembly would show the scantiest regard for the grievances of women. In 1838 the House of Commons passed a Bill giving the mother a right of access to her children when the misconduct of their father rendered it impossible for her to live with him. The House of Lords threw it out by 11 votes to 9, only 20 peers thinking the subject important enough to be present at the discussion. The arguments used on this occasion were the usual stock sophistries by which the Peers usually endeavour to retard reform. When they are asked for assistance to pass the Plural Voting Bill they refuse to accept the principle of one man one vote until they are able at the same time to carry out the fuller reform of one vote one value. But never surely in the immeasurable and inconceivable absurdities of the obstructives of the Upper Chamber was there ever such a *reductio ad absurdum* of this favourite form of argument than that used by no less a personage than Lord Brougham! He argued that women suffered so many other grievances they had no right to ask to be relieved from this one. His words, quoted by Mr. Spalding, were as follows:—

"Could anything be more harsh or cruel than that a wife's goods and chattels should be at the mercy of her husband, and that she might work and labour and toil for an unkind father to support his family and children while the husband repaid her with harshness and brutality, he all the while revelling in extravagance and brutality, and squandering in the company of guilty paramours the produce of her industry? The law is silent to the complaint of such a woman."[1]

A wife is robbed by the law of her property, therefore let it also continue to rob her of her children. Could anything be more convincing? It convinced the House of Lords, which thereupon threw out the Bill.

It may be asked whether the Peers did anything to redress the robbery of a wife's property thus admitted

[1] Spalding's "House of Lords," p. 212.

by Lord Brougham. A whole generation of wives passed away before the question of protecting the property of married women was handled by the Peers. They did not take the initiative. In matters of justice and human right they never do. For the defence of property they are keen enough, but not of the property of the sex to which they do not belong, or the class which is unrepresented in the House of Lords. They remodelled Mr. Russell Gurney's Married Woman's Property Bill of 1870, so as to leave the old law of forfeiture on marriage intact, while providing for the removal of some of the more objectionable abuses to which it gave rise.

For twelve years the wives of Englishmen were mocked by this eviscerated measure. Then, thanks chiefly to the untiring exertions of Mrs. Elmy and of Mr. Bryce, sufficient pressure was brought to bear upon the Lords to induce them to grant in 1882 the protection to the property of married women, which they had refused twelve years before.

When the Contagious Diseases Acts were enacted, and the womanhood of Britain were in revolt under the leadership of Mrs. Butler, it was in the Commons, not in the Lords, where the victory was won, the Bishops in this great moral issue proving themselves to be as weak a reed to lean upon as they have been in all other great causes which postulate the existence of a righteous ruler of the universe.

In the later phases of woman's struggle for justice and civic rights the Lords have played their usual *rôle*. The London County Council, having to act *in loco parentis* for many thousands of persons lodged in their great asylums, thought it well that women should share the parental responsibility. They elected two women as aldermen, who did admirable work. A judge, under strong sex bias, decided that they were not legally entitled to do the work. The London County Council asked Parliament to permit them to utilise the services of capable and willing women as councillors and aldermen. The House of Lords in 1898, by way of response,

added a clause to the London Government Bill expressly excluding women from the London Borough Councils, although they had sat unchallenged on the Vestries which these Councils superseded. In 1904, waxing bolder in their defiance of the claims of justice, the Lords rejected by 57 to 38 a Bill which proposed to allow electors to elect the best candidates to seats on the local governing authorities, regardless of their sex.

Yet another reason for objecting to the House of Lords is to be found in the fact that although personally the Peers are free from the stain of corruption, collectively they are as corrupt a legislative body as is to be found in the world. Mr. Morton, M.P., speaking at Portsmouth, February 13, 1894, put this charge in plain words :—

"The Lords uniformly used their political position to further their personal pecuniary interests. Why was it that they threw out the principle of Betterment? For no other reason than that many of them were pecuniarily interested in the ground rents of London. But who were the Peers that had led to the mutilation of the Employers' Liability Bill? They were Lord Dudley and Lord Londonderry, the largest coal owners in the country. Why is it that they had never been able to solve the Land Question in England? Simply because the Lords were also the landlords. It was the duty of the people of this country to see that a final stop was put upon these fraudulent proceedings."

If the rule were enforced that no legislator should speak or vote on any question in which he was financially interested, how many of the Lords would be left to deal with Land Bills?

In 1898 the consent of the Lords to the passing of the Irish Local Government Bill was purchased by an agricultural dole, of which £300,000 went straight into the pockets of the Irish landlords. Mr. Thomas Shaw, the present Lord Advocate, denounced the arrangement as being in the nature of a corrupt bargain, productive of much social mischief, if not of social disorder.[1] Mr. Dillon described it as a flagitious waste of public money,

[1] House of Commons, July 14, 1898.

but said that although it was a scandalous arrangement he would rather pay the price than lose the Bill. Part of the price was the equivalent in the shape of rate reduction of a perpetual annuity of £858 to the Duke of Devonshire and £788 to Lord Lansdowne, who were at that time both members of the Government.

The fiscal policy favoured by the Peers was admittedly based upon self-interest. They refused to condemn the Corn Laws because dear bread meant high rent, and they naturally regarded Cobden and Bright as the enemies of the human race. As they were in 1839, 1840, 1842, and 1843, so they are to-day. In 1905 the majority in the Lords against the Duke of Devonshire's resolution condemning the taxation of food was 121 to 87.

The House of Lords has always contained among its members some of the most eminent lawyers of the country. Nevertheless, or perhaps as some would say on that account, it has retarded the progress of legal reform. Session after session it resisted the demands of the Commons for the abolition of imprisonment for debt. The Bill was rejected one year, referred to a Select Committee another, and abandoned for want of time in a third. It was not without much reluctance and much wrangling with the Commons that they consented to remove that disgrace of our criminal law, which forbade a prisoner the benefit of counsel, and denied him copies of the depositions on which he had been committed. For years they prolonged the needless expenses and delays which stood between the poor and the cheap and speedy justice of the county court. They obstructed the reform of the Augean stables of the Court of Chancery. They repeatedly rejected measures simplifying the procedure of the common law courts in England and Court of Session in Scotland. They threw out the Bill extending the jurisdiction of the Court of Admiralty in 1839—an Act which Lord Melbourne, who was not usually given to invective, declared was "one of the most disreputable and unprovoked acts of power that ever I knew to be

exercised." In 1875 they succeeded in compelling Mr. Disraeli's Government to abandon the attempt to complete the Judicature Act of 1873.

This rapid and imperfect survey of the acts of the House of Lords will help to explain why hereditary legislators are distrusted by the people—so distrusted that nowhere in the world but in Britain is an exclusively hereditary legislature to be found. But when all has been said of their miscellaneous misdeeds, Dr. Spence Watson spoke the truth when he declared in 1894:—

"The question with the Lords is not one of their conduct in this or that special case. It is the baneful and blighting effect of their power over legislation generally with which we have to do. No doubt all special manifestations of that power are annoying and irritating; whilst the perpetual strife between the two Chambers, the arrogant assumption of superiority on the part of that which is ironically called 'the Upper,' and the habitual but unprincipled surrender of the Tory peers upon any violent expression of popular indignation, are unworthy, undignified, and unsettling. But the real evil to be remedied is the very existence of the power. That not only interferes with every question great or small, but it affects the very manner in which every question is formulated. We are concerned now with the disease itself, not with its symptoms, and it is the disease itself which demands immediate and radical cure. We were asking this forty years ago. For forty years we have borne with a state of things which even then seemed intolerable."[1]

Thirteen years have passed since then, and the nation is still bearing the same state of things. Are we going to continue bearing it for ever?

That is the question of the hour.

[1] "The House of Lords," Lib. Pub. Dep., 1894, pp. 2–3.

PART III

WHAT MUST WE DO WITH THE HOUSE OF LORDS?

CHAPTER I

THE COUNSELS OF THE LIBERALS

THE Liberals and their leaders have not as yet (Christmas, 1906) fallen into line on any fighting front since the rejection of the Education Bill forced the question of the House of Lords to the first place.

It is all the more interesting to glance at the utterances of the Liberal chiefs and the resolutions of the Liberal organisations when last the question of the Lords was before the nation.

Sir Henry Campbell-Bannerman, as his manner is, has been very guarded in his references to the subject. Many years ago he spoke disrespectfully of the Referendum as a new-fangled thing, but his last important utterance on the subject before taking office is to be found in his speech at Leeds, on March 10, 1903. After touching upon many topics of the day, he said :—

"I have left over the question of the hereditary Chamber. We have been told again and again that the Second Chamber is necessary in this country. We have practically not had one for the last eight years, because that august assembly has allowed itself to be reduced to a mere humble house of record for the will and whims of the Conservative majority in the House of Commons. But we know if a reforming Government were in power it would be certain to hamper it at every turn. Well, what are we to do? It is a gigantic problem. I will tell you the first thing you have to do—strengthen the People's House, and then you can try conclusions with the other."

Since then the People's House has been strengthened to an extent Sir Henry little dreamed of in 1903. It

is now for him to face "the gigantic problem" of "trying conclusions" with the House of Lords. The quarrel is none of his seeking. Long ago he told the people of Hawick (January 7, 1895):—

"We do not wish to meddle with the composition of the House of Lords or to speculate on Second Chambers. Our business is to make the representative Chamber predominant, and having done that, if we had nothing better to do, we could set ourselves at our leisure to consider whether an improved Second Chamber is desirable or not."

From which it seems evident that Sir Henry, not having much leisure, has not devoted much consideration to the question, which he then regarded with the impatient contempt which the practical statesman has for speculative politics.

If the Prime Minister was reserved in his utterances while in opposition, that cannot be said of the Lord Chancellor, who, of all his Ministers, has expressed himself most explicitly upon the question now under discussion. Mr. W. P. Byles, M.P., writing on the proposed creation of new peers to overawe the resistance of the majority of the Lords, wrote in 1898:—

"The last Liberal Attorney-General (Sir Robert Reid) has lent his high reputation to this plan, and has several times expounded and commended it from public platforms. Here is this perfectly simple plan: A Liberal statesman, when called on by the Queen to form an Administration, is to refuse, except on condition that the Crown consents to make the necessary number of new peers to enable him to carry his measures. Every member of the party is to refuse to support the Minister unless he insists on this condition. Every Progressive elector in the constituencies is to refuse to vote for any candidate who will not pledge himself to refuse that support. Thus the whole matter is within the immediate power of the constituents themselves. You say to your candidate, 'Will you vote against any Minister who has not obtained from his Sovereign the right to make peers?' You act in accordance with his reply, and the thing is done. As Sir Robert Reid points out, that was the method by which the great Reform Bill was passed through the Lords."[1]

[1] "The Question of the House of Lords." Edited by And. Reid.

Mr. Asquith is a single-chamber man. Speaking at Birmingham almost immediately after Lord Rosebery's famous speech at Bradford, Mr. Asquith [1] enforced with vigour his leader's observation that in advocating a reformed House of Lords the latter was speaking "as a man," and certainly not at all "as a Minister." The drift of the speech of the Home Secretary was unmistakable. He advocated a single-chamber Parliament. He scoffed at Lord Rosebery's long list of nations whose experience had led them to prefer the double chamber. He poured ridicule upon Lord Rosebery's own projects of introducing an elective element into the House of Lords. To think of reforming the Upper Chamber, of bringing its constitution and composition into greater harmony with the sentiments of the day, was "mere Toryism."

Seven months before, speaking at Huddersfield, Mr. Asquith said :—

"I, for one, earnestly trust that the Liberal party—not only its leaders, but the rank and file—will begin to devote itself earnestly and assiduously to the devising of the best scheme which experience, which knowledge, which foresight can suggest for removing this intolerable obstacle to the progress of popular legislation and for securing that the express and deliberate wish of the people should be able to give itself prompt and effective embodiment in the Statute-book as well as in the administration of the realm." [2]

In January, 1895, Mr. Asquith had come to the conclusion that—

"The constitutional theory as to one chamber or two chambers was a speculative question which had no real relevance to the practical question we have got to determine. The House of Lords must be brought into harmony with the living principles of the Constitution; there was nothing inconsistent in this position with the House of Lords, or whatever Second Chamber you may still have exercising the functions of revision, of consultation, and even, with proper safeguards, of suspension." [3]

[1] November 21, 1894. [2] April 4, 1894.
[3] Speech at Hull.

Mr. Haldane twelve years ago published an article on the House of Lords, full of constitutional learning and thoughtfulness. Mr. Haldane was for a "resolution declaring that the Commons are entitled to be the sole judges of the will of the constituencies," leaving the Lords, however, "capable of acting in a constitutional emergency if the Commons had plainly and obviously put themselves in the wrong." This he then thought would settle the question. He agreed with Lord Rosebery that the people of this country desire a Second Chamber, but he wished to postpone its erection, not only until the Lords' Veto had been settled, but until Home Rule "all round" had been settled, and apparently until Imperial Federation has been settled, and then after this long interval we are to have a "reformed and reconstituted House of Lords" containing the "wise men of the Queen's dominions, far and near."

Mr. Bryce declared in a speech at Aberdeen[1] that "any second chamber worth having" must be entirely elective, and based "on the same suffrage as the House of Commons"; and that the hereditary element in the House of Lords must "be entirely extinguished." Meanwhile he was for clipping their wings.

Mr. Morley, the author of the famous jingle "Mend 'em or end 'em," has limited himself to a suggestion that peers might have the option of sitting in the House of Commons if they could find any constituency to elect them. Referring to this suggestion at a meeting at Newcastle—

"The more the need for mending is felt, I am afraid the more difficult or impossible is mending found to be. Some years ago, I think at Dundee (May 21, 1884), I suggested as an ingredient in the process—I do not say in which process—the Peers, and I hold to this now, the Peers should be allowed to sit in the House of Commons provided they make up their minds to give up their right of peerage and once for all to make themselves eligible as representatives of Parliamentary constituencies. When I made that suggestion it was not very favourably received by some of my Radical friends. It is not the first suggestion of mine that

[1] December 17, 1894.

has not been favourably received at the beginning, but which has been found with a little lapse of time to have something in it after all. I do not think that will be enough. I think there will have to be some definite attempt to carry out what Mr. Bright, at the Leeds Conference in 1883, suggested, by which the power of the House of Lords—this non-elective, this non-representative, this hereditary, this packed Tory chamber—by which the veto of that body shall be strictly limited." [1]

Mr. Augustine Birrell was not a Cabinet Minister, but he was a member of Parliament when the House of Lords' question was to the front in 1894. In that year he attended the Portsmouth Conference of the Liberal Caucus, and afterwards described his impressions of the views of the Liberals there present. He said :—

"Were the country, by large majorities in all four kingdoms, to pronounce in favour of the total abolition of the House of Lords, there can be no doubt the country would be obeyed. The Lords, to do them justice, have always given way to a genuine threat. If they were bidden to go, go they would, without putting anybody to the inconvenience of creating a sufficient number of noblemen to inflict the happy despatch. The majority of Radicals favour this solution as one which, though it may involve delay, is the cleanest job when done. The Conference was generally of opinion that in any event, and pending further litigation on the subject, a short Bill should be introduced, forbidding or restricting the power of veto. The feeling was also that anything of the kind should be done at once. The policy favoured at Portsmouth was to come to blows as soon as possible. Privilege dies hard, but die ultimately it must. A genuinely Democratic Chamber, such as the House of Commons is rapidly becoming, cannot long remain unequally yoked with so hardened an unbeliever in Government by the people as the House of Lords." [2]

From this a natural transition leads to the resolutions passed by the National Liberal Federation.

At the first meeting of the National Liberal Federation, after the struggle over the Parish Councils Bill, held at Portsmouth in February, 1894, Mr. W. S. Robson, Q.C., moved :—

[1] May 24, 1894.
[2] *Liberal Magazine*, March, 1894.

"That the habitual disregard of the national will manifested by the House of Lords in delaying, mutilating, and rejecting measures demanded by the country and approved by the House of Commons, is an intolerable abuse of the powers possessed by the hereditary and non-representative Chamber, and that the Ministry may be assured of the enthusiastic and strenuous support of the Liberal party in whatever measures it adopts to secure that the House of Commons shall be the paramount authority in the State."

The resolution was seconded by Mr. Morton, M.P., and carried unanimously.

Mr. W. S. Robson, now Sir W. S. Robson, Solicitor-General, said the Liberal party recognised now that the Hereditary Chamber could no longer co-exist alongside a Democratic Chamber. The attempt to combine the two had resulted in a Constitution which could make no steady and continuous and consistent progress. He believed he echoed the universal feeling of Liberalism when he said that they wanted no surrender, and that they would accept no surrender from the Lords which did not involve the loss of their veto upon legislation. Therefore the Liberal party would urge their leaders not to leave the fight until it had been finally determined that the country was to be governed by the representatives of the people and not by the representatives of the Middle Ages.

Mr. E. A. C. Morton, M.P., said: "In the struggle that was coming their motto must be, 'No veto by the Peers.'"

In the summer a special Conference of the National Liberal Federation was held, to "give definite and concrete expression to the feelings of the Liberal party on the question of the House of Lords." The resolution passed by the Conference was as follows:—

"That this meeting therefore calls upon the Government to introduce as soon as practicable during the present Parliament a measure for the abolition of the House of Lords' veto, by providing that whenever a Bill passed by the House of Commons should be altered or rejected in the House of Lords, such Bill may be reaffirmed by the House of Commons at any time in the same session, in the same Parliament, with or without such alteration, and subject only to the Royal Assent shall thereupon become law."

This resolution has been reaffirmed in ever-varying terms at subsequent meetings of the Federation. For instance, at Nottingham, March, 1900, the following resolution, moved by Mr. Yoxall, M.P., and seconded by Mr. G. Greenwood, was carried unanimously :—

"That this Council maintains its firm conviction that Parliament will never be really representative and efficient until the House of Lords be rendered powerless to prevent the passing of any Bill deliberately approved by the House of Commons by depriving the Upper House of the power of veto which it at all times possesses, but which it only uses to defeat or mutilate legislation passed through the House of Commons by a Liberal Government."

In seconding this resolution Mr. Greenwood said a reformed House of Lords meant a strengthened House of Lords, and that was the very last thing they wished to see. Let them be chary of giving new title deeds to this senile anachronism.

Again in 1903, in May, when the Association met at Scarborough, Mr. Ellis J. Griffith, M.P. (Anglesey), moved, and Mr. Hamar Greenwood seconded, the following resolution :—

"That in the opinion of this Council the powers of the House of Lords are inconsistent with the principles of democratic government and a menace to the safety of the State ; it restricts the freedom of the Executive and the representative Chamber by causing measures to be prepared with direct reference to that which will satisfy the narrow views of an hereditary and irresponsible body ; it rejects or mutilates Liberal measures, while always assenting to and often intensifying the mischief of Tory legislation ; and this Council considers it imperative that the earliest opportunity should be taken by a Liberal Administration to ensure that the will of the people, as expressed by the House of Commons, shall be final and conclusive."

This resolution, it will be noticed, is drawn up in vaguer terms. Nothing is said about the abolition of the veto, although of course that is clearly implied.

There remains to be noticed the utterances of Lord Rosebery, a nobleman who at one time bid high for the honour of solving this question, but who of late has

contributed nothing of light or leading to the national councils.

Lord Rosebery's attempt to reform the House of Lords from within is described in the next chapter. When he was Prime Minister he made three remarkable speeches inciting the nation to reform it from without. The first, which was delivered at Bradford, October 27, 1894, surprised no one so much as his own colleagues.

The Prime Minister assured the country that he was proposing a greater measure than the Reform Act of 1832. "As to the issue, it is tremendous. It is the greatest issue that has been put to this country since your fathers resisted the tyranny of Charles I. and James II."

"You have to deal with a question of the revision of the entire Constitution. You have to deal with two out of the three estates of the realm. You have to deal with a Council which has survived many centuries and many storms, and which has existed up till now, partly from the disinclination of the English people to constitutional change, and partly also owing, perhaps, to the personal popularity and ability of some of its members. This is a great thing to undertake. . . . You are entering upon a great campaign, and if you give the seal of your consent to an entrance upon that campaign it will not be an affair of rose water. You must be prepared to take off your waistcoats, not merely your coats. You must be prepared to gird up your loins, and if you once put your hands to the plough you must take a solemn resolution that you will not look back. Well, gentlemen, to some great issues like this, to some grievances, there is an obvious remedy. The misfortune of this grievance and this issue is that the remedy is not obvious within the limits of the constitution. You can only deal with the House of Lords, with the powers of the House of Lords, by a Bill passed through both Houses. Anything but that is, constitutionally speaking, a revolution—is overriding the Chamber of Parliament against its own will, without legislation passed by its own consent."

Lord Rosebery's plan was to proceed against the House of Lords by submitting to the House of Commons a "great resolution" which would assert the privileges of the House of Commons as against the irresponsible control of the House of Lords, and which would declare in clear and unmistakable terms that the

House of Commons, in the partnership with the House of Lords, is unmistakably the predominant partner. This resolution was to be passed at the instance and on the responsibility of the Government itself. It would represent the joint demand of the Executive Government of the day and of the House of Commons for the revision of the Constitution, and in that way the question would enter in itself on a new phase.

The resolution would be in itself a new charter, or, as the Americans would say, a new Constitutional amendment, and this would be the first act of a great drama of which, perhaps, we may have to see a third, a fourth, and a fifth, as well as a second act. The passing of this resolution was to be followed by a dissolution.

"Powerful as the House of Commons is for such a purpose, it must have a power greater than itself. That power can only be given, that strength can only be conferred, that inspiration can only be afforded by the people of Great Britain and Ireland. Nothing else will suffice for it. To that august tribunal we will appeal. We will ask it to give us strength and authority—a majority and a mandate—to deal with the question of constitutional revision. The Government then will put this force in motion at the proper time. The first act is the resolution. The second act is an appeal to the country to support that resolution. For the will of the people is the final and supreme court of appeal. It will be for the nation to decide between the House of Lords and its own responsible representatives. And, therefore, what we shall be practically asking you is this—for a popular reference such as in other countries is called the referendum—for a direct popular reference as to whether you desire a revision of the Constitution in this sense or whether you do not."

He scouted the idea that it would be better to proceed by demanding the abolition of the veto. He said:—

"You cannot get the House of Lords to pass a Bill for the abolition of their veto, because they would say there was no use then in there being a House of Lords at all. But there is this further difficulty, What do you mean by the veto? Do you mean that the House of Lords is to be obliged, under certain circumstances, to pass the second reading and the third reading of a Bill sent up from the House of Commons? Do you allow it, in fact, any power of revision in Committee? If you allow it

any power of dealing with a Bill of the House of Commons in Committee, your abolition of the veto would be absolutely fruitless. The House of Lords could give a Bill a second reading. It could knock the bottom out of a Bill in Committee and it could send it back for the third reading, saying, 'We have not exercised our veto. Here is your Bill.' Look at the Employers' Liability Bill. The House of Lords read it a second and third time. It introduced, however, one apparently small amendment in Committee, and yet when the Bill came back from the House of Lords it stank in the nostrils of the House of Commons. Well, then, I suppose the abolition of the veto means the abolition of revision in Committee, because the one without the other would be fruitless and useless. If so, then what is the use of the House of Lords at all? You would simply keep it as a high court of justice or a sort of State prison for a number of able and eminent men, and in order to induce them to put themselves into this unpleasant state of suspended existence you would have to use means as violent as you would have to employ in order to procure their abolition."

He concluded his remarkable speech by an impassioned appeal to his hearers to do their part :—

"The Government will have done its part, and it will then be your turn. If you do not you will annihilate your own representation and abide contentedly by the unbiassed, patriarchal, mellow wisdom of the House of Lords. You will thank them for having done you the favour of having been born. It will be unnecessary any further to go through the musty and superfluous process of popular election; for you will have beside you a self-constituted body that will save you any trouble of the kind.

"But if, gentlemen, you take a different view—if for years you have been champing and chafing under the bit of the House of Lords—if for years you have been wondering at this strange survival of an almost apparently antediluvian period—if for years you have been instructing your representatives to do all that in them lies to maintain your rights against their interference—why, then, you will give your verdict in accordance with the facts, and you will make ready for the fight. You will remember, as I have told you before, that in this great contest there are behind you, to inspire you, all the great reforms, all the great aspirations, and all the great measures on which you have set your hearts. Before you are encamped all the forces of prejudice and privilege. Before you frown the sullen ramparts, behind which are concealed the enemies you long to fight, and so long have fought. And I would ask you, if you are prepared to go into this fight, to fight it as your old Puritan forefathers fought—fight with their stubborn, persistent, indomitable will—fight as those old Ironsides fought in Yorkshire, never knowing when they were beaten

—and determined not to be beaten. Fight, as they would have said themselves, not with the arm of the flesh, but with the arm of the spirit. Fight by educating your fellow-men—not as to the object, for in that you are clear already, but as to the proper means for attaining that object. And if you believe that we of the Government are in earnest in this matter, and capable of dealing in this matter, you will give us your support. We fling down the gauntlet. It is for you to back us up."

Alas for Lord Rosebery, even his colleagues in the Cabinet did not back him up! He had been, however, careful to explain "that he was speaking as a man and not as a Minister," and that he did not wish to pledge others who held a different opinion. At that time he said:—

"The question of a second chamber is sufficiently remote. . . . It is not, at any rate, present to our hand. What we have to deal with at present is not the formation or the reform of a second Chamber, but the adjustment of the relations of the two Chambers which exist, so that the will of the popular Chamber shall be made plainly and manifestly predominant."

When he went down to Glasgow a fortnight later Lord Rosebery spoke in a somewhat more chastened mood. A month later he went to Devonport and repeated his advice about the best way of tackling the Peers. He repudiated passionately the popular impression that his Government proposed to reform the House of Lords. He said:—

"We have nothing to do with the present constitution of the House of Lords. It has never entered into our heads to touch the constitution of the House of Lords. I say it confidently for every single member of the Cabinet that no such act of insanity as our proposing a reform of the House of Lords ever occurred to us.

"We find the House of Lords as it stands, we find the House of Commons as that stands, and we desire, as the most practical way of effecting the object we have in view, so to readjust the relations of the present House of Commons to the present House of Lords that the deliberate will of the House of Commons shall not be overborne by the action of the House of Lords. In our opinion, the time has came when the right of the House of Lords to oppose an absolute veto on the wishes or the legislation of the House of Commons should for ever cease."

Lord Rosebery's sense of the difficulties of his task deepened. He said :—

"No such Bill as the abolition of the House of Lords, or the limitation of the veto of the Lords"—for he regarded the two as identical—"would ever pass the House of Lords . . . unless you overawe the House of Lords. . . . Of course you may get the House of Lords to surrender as you get a fortress to surrender, by making it clear that it is encompassed and besieged beyond all hope of deliverance, but that in itself is not an easy task."

The Lords were not overawed. The menace of the "great resolution" did not affect them in the least. Lord Salisbury contemptuously remarked :—

"Of course, if such a resolution were passed, the House of Lords would pass another resolution, and these two would be put before the English people. Sometime or other a dissolution would follow, but the electors would all of them vote on the particular matters nearest their hearts without thinking twice about the resolutions that had been passed."

The famous resolutions never saw the light on either side. But when the General Election of 1895 came, the electors voted as Lord Salisbury predicted, thinking of other questions than that of the House of Lords.

CHAPTER II

SUGGESTIONS BY THE PEERS

BEFORE discussing what should be done with the House of Lords it may be useful briefly to recapitulate what proposals have actually been made by Peers in the House for its reform.

The first famous attempt—that of 1719, when the House of Lords, scared by the fact that Queen Anne had created twelve peers to secure a majority in the House of Lords in favour of the Peace of Utrecht—proposed to forbid the creation of any more than six new peers. The Lords passed this "Reform" Bill. The Commons, led by Robert Walpole, rejected it by 269 to 177.

From that time down to 1869 the Peers did nothing, did not even talk of doing anything. In 1856 they protested against the creation of life peers, in 1868 they abolished proxies, and in 1871 disqualified bankrupt peers from taking a part in legislation. It was not till 1869 that Earl Russell proposed to give the Crown a right to nominate twenty-eight life peers at the rate of four, subsequently reduced to one, per annum. In Lord Russell's Bill six classes of qualified persons were mentioned, namely, peers of Scotland and Ireland, commoners who had been members of Parliament for ten years, officers of the army and navy, high legal and judicial officers, persons distinguished in science, literature, and art, and, lastly, persons who had rendered service to the Crown in public office

for five years with fidelity and ability. Lord Derby, on the second reading, objected to these classifications, and suggested that the choice of the Crown might be unduly restricted by confining its choice to the specified categories. The Bill was read a second time, but it was lost on the third reading by 106 to 76. It died without a tributary tear.

In 1876 the creation of four Lords in Ordinary to act as Lords in Appeal under the new Appellate Jurisdiction Act was sanctioned. At first they were only to sit and vote during their tenure of office. In the following year they were transformed into life peers.

Lord Rosebery was the next peer to take the subject in hand. His first essay was on June 20, 1884, when he was thirty-five years old. He moved for the appointment of a Select Committee to consider "the best means of promoting the efficiency of this House." He specified nine classes which were entirely without representation in the House of Lords. The first were the Nonconformists, the last the workmen. The other seven were as follows: Medicine, science, literature, commerce, tenant farmers, arts, and colonists. He suggested that life peers should be created, and that the ancient system of assistants by which judges were called into council might be revived. Lord Salisbury opposed the motion, and it was rejected by a majority of 39.

Four years later Lord Rosebery made a second attempt.[1] This time he moved that a Select Committee should be appointed to inquire into the constitution of the House. It was his object, he said, to improve the House of Lords. He would remove from it elements which diminished the public respect for it. He would add other elements which seemed likely to bring it wisdom and strength. Out of the whole hereditary peerage, including the Scotch and Irish peerages, let a fixed number of peers be elected to

[1] House of Lords, March 19, 1888.

serve in the House of Lords, as is done at present with regard to the peerages of Scotland and Ireland, introducing, however, some system of minority representation. Let peers be created for life. Let a certain number of lords of Parliament be chosen by the more important of the Town Councils and County Councils, let representatives of the larger colonies be admitted. He also proposed that certain persons should be nominated by ministers as their representatives. He did not greatly fear that a deadlock would arise between an improved House of Lords and the House of Commons; and he suggested that difficulties of this sort might be provided against by requiring both chambers under certain circumstances to defer to the decision of the two combined. Lord Rosebery did not profess to have elaborated a perfect scheme. His proposals were as definite as could reasonably be asked from a peer in a private position who was calling for the appointment of a committee, and not promulgating a Reform Bill of his own. He said what was wanted was "the broad basis of popular support," and he attributed their lack of it to their "indiscriminate and untempered heredity," and to the fact that they were practically in the pocket of Lord Salisbury. He utterly repudiated the notion of a Parliament constituted of a single chamber, associating himself with the doctrine of John Stuart Mill, that two chambers were essential, "so that neither of them may be exposed to the corrupting influence of undisputed power even for a single year."

Lord Salisbury warned the House that, "You are treading on very dangerous ground, you are touching weapons of a terribly keen edge when you undertake to reconstruct the ancient assemblage to which we belong," and the motion was negatived.

Nothing daunted, Lord Dunraven next essayed his hand as a reformer. He proposed, in addition to 180 delegated peers from the present order, that there should be certain life peers—10 for the Colonies, 2 for the Roman Catholics, 2 for Protestant Dissenters,

2 "for science, letters, and sound learning generally," and 1 for each County Council.

His Bill had the advantage of bringing Lord Salisbury into the field. The Tory leader laid two Bills on the table of the House on June 18, 1888.

Lord Salisbury admitted the House was not sufficiently representative :—

"We have some distinguished soldiers and sailors, and some soldiers, as we know, are not allowed to speak as often as we could wish. Still, on these subjects, I doubt whether the representation is sufficient to make our debates adequate, or the examination of measures which come under our consideration sufficient. But outside of these matters, when you come to questions of finance, mercantile matters, engineering matters, and a number of other departments of thought and activity, they are hardly represented in this House at all."

His proposals took the shape of the "House of Lords (Life Peers) Bill" and the "House of Lords (Discontinuance of Writs) Bill"—for getting rid of black sheep. The first Bill may be explained in Lord Salisbury's own words:—

"We propose that it shall be lawful for Her Majesty from time to time by letters patent to appoint a peer during his life 'any person qualified as shown hereinafter,' and then come certain categories which I will read. Of these not more than three persons shall be appointed in any one calendar year. Either he must have been for not less than two years a Judge of the Superior Court in some part of the United Kingdom, or have served in Her Majesty's naval forces and have obtained the rank of Rear-Admiral or higher rank, or he must have served in Her Majesty's land forces and have attained the rank of Major-General or higher rank or have been an Ambassador Extraordinary. I think we may say that, if a man has been in the Civil Service of the Crown, either in this country or in the Colonies, and has afterwards been made a Privy Councillor, he is a fit person for a life peerage."

In addition to this, Governor-Generals of Colonies or Lieutenant-Governors in India were to be eligible, and two persons each year might be appointed "on account of special qualification other than any of the above." But not more than five Life Peers were to

be appointed in any one year, and at no time was the whole roll of Life Peers to exceed fifty.

The Black Sheep Bill provided for the exclusion of the disreputable by providing that the House should address the Crown praying that the writ of summons should be cancelled in the case of peers guilty of misconduct. Both Bills were read a second time and then withdrawn. In 1888 Lord Carnarvon introduced another Black Sheep Bill, but it was lost. Since that time nothing has been attempted in the House in the shape of reform. One or two peers have put forward schemes for reforming the House in the press, to which a passing reference may be made. Lord Ribblesdale admitted that "with the Conservatives in office revision and suspension by the House of Lords become matters of theory, with the Liberals in office matters of fact." He recalled Mr. Bright's advice, at a time of acute controversy between the Houses. After dismissing the constitutional check of an arbitrary creation of peers as a remedy worse than the disease, Mr. Bright said: "I would rather see the Houses of Parliament, whether the one or the other, taking these questions up" (the relations of the Houses) "in a broad, philosophic spirit, than that they should wait until there is a ferment in the country approaching to confusion." Cannot this be done now?[1] he asked.

Wise counsel in 1895. But in 1907 it is a little late

[1] *Nineteenth Century*, August, 1895.

CHAPTER III

ABOLITION PURE AND SIMPLE?

It is for each citizen to make up his mind whether in the record set forth in the preceding chapters the House of Lords, as it at present exists, can be tolerated any longer. Has it or has it not become an intolerable nuisance? Is it compatible with representative government? Does it or does it not reduce the democratic theory of the self-government of the people to an absurdity? Can such a mischievous anachronism be permitted to survive any longer to trouble our modern State?

It may properly be replied that while the House of Lords is a very imperfect, a very faulty, and a very exasperating institution, it exists, and everything that exists, and especially everything that has existed a long time, has a *raison d'être.* The very worst evils, such as the Turkish Empire, the House of Lords, and the institution of slavery, came into being and continue to survive, not because of their admitted faults, but because of some inherent virtues or useful qualities for which they are tolerated. There is nothing bad in the world which is not saving us from something worse, even although it may be at the same time blocking the road to something better. This is true of all the plagues which afflict humanity, and therefore it is true of the House of Lords. Therefore, before definitely deciding to pronounce the fatal words, "Cut it down, why cumbereth it the ground?" it is necessary

to inquire whether, when the upas-tree is cut down, there is anything better to put in its place. Men, especially Englishmen, are ever slow to move, and before deciding to rid ourselves of an institution which has become an intolerable clog on progress and an obstacle to all reform, it is necessary to inquire what it is proposed should take its place.

To this some will answer impatiently, "Nothing need take its place. The dustman, when removing the decaying garbage of the street, does not ask himself what will take its place. Dirt is only matter in the wrong place. The duty of the scavenger is to clear it away. An hereditary legislature in the twentieth century is no better than decaying garbage. Sweep it away and be done with it, and put nothing in its place."

But these impatient remonstrants forget that the more thoroughly they sweep the House of Lords into limbo, the more completely do they establish in its place the sole, supreme, unlimited authority of the House of Commons as the heir to the powers and prerogatives of the hereditary Chamber. To put nothing in the place of the House of Lords is impossible. The authority at present wielded by that body will of necessity pass to some other institution of the State, either to the Crown or to the House of Commons. If the House of Lords dies intestate, the House of Commons will be its heir, and will step into the full possession of its inheritance.

If it be granted that the present Upper Chamber has amply merited a sentence of extinction, and it be admitted that some arrangements must be made to provide for the exercise of the legislative powers at present vested in that body, either by allowing them to lapse, like an intestate estate, to the heir-at-law—which in this case would be the House of Commons—or by providing a different kind of Upper Chamber to inherit its powers and privileges, the ground will be cleared for a discussion of the alternatives to the present House of Lords.

These are practically three.

The first is to allow the House of Commons to inherit.

The second is to create a brand new Senate.

The third is to reform the House of Lords, but to clip its claws and draw its teeth.

The question of how to secure the adoption of whichever of the three commends itself most to the judgment of the citizens is a problem to be discussed hereafter.

Here it is enough to admit that unless we adopt the short and easy plan suggested in the closing chapter, every other solution will involve the application of outside pressure adequate to overcome the resistance of the existing House. Its objection to all the suggested changes is as natural and as comprehensive as the objection of the duck to any of the variety of sauces with which he was to be served at table. Whichever scheme is preferred, postulates a resort to the *ultima ratio* of the Constitution.

The first proposition, to dispense altogether with a Second Chamber, has a simplicity which commends it to many minds. The Two-Chamber superstition has been fiercely assailed, not only from the Radical camp. Mr. Kebbel, a Conservative writer of sagacity and repute, after discussing the various *pros* and *cons*, while shrinking from what he describes as a game of double or quits, expresses his preference for that drastic experiment to any attempt to reconstruct the House of Lords on other foundations. "I am afraid," he writes, "that the new House would have no roots in the soil; that it would be built upon the sand, and that at the first blast of popular anger it would fall." Whereas, speaking of the Single Chamber experiment, he says:—

"If it succeeded, they (the aristocracy, the Conservative party) would regain more than all the power which they lost in 1832. I am not at all sure that it would not succeed, or that the people would be unwilling to see in a House of Parliament, elected freely from all classes of society, an assembly that could be safely trusted with the government of the country." [1]

Mr. Kebbel is, however, an exception. Most Conservatives are firm believers in "the bicameral superstition."

[1] "Subjects of the Day" (The House of Lords), p. 95, 1891.

The case in favour of a single Chamber has been stated with vehemence by Mr. Andrew Reed in the essay he contributed to the book which he edited, "The Question of the House of Lords" (1898). He thus sums up his conclusions:—

"A single House represents a single People.
"Two Chambers divide the people, but one House unites them.
"A single Chamber concentrates the attention and responsibility of the representatives and the electors.
"A double Chamber divides attention and responsibility; it doubles the work and retards legislation.
"The bulwark against the Commons is not the Lords or the Second Chamber, but the General Election."[1]

Mr. J. M. Robertson, now member for the Tyneside Division, may also be quoted as an exponent of the single Chamber doctrine. Writing in the *Free Review* twelve years ago, he thus stated the arguments that led him to oppose any Second Chamber. He wrote:—

"If a Second Chamber be representative it will simply express the will of the people as the House of Commons does, in which case it is a useless multiplication of machinery; that if it be not representative it must succumb to the representative House on all important occasions; that it is absurd to select a body of men of certain experience as being competent to sit in an Upper House, and thereby exclude them from the Lower; that a body selected mainly from the official and military classes is, in any case, sure to be reactionary; that it is plainly unreasonable to ask the people to choose a body with a view to frustrating popular aspirations; that to place a responsible House over the House of Commons is to make the latter careless and rash in experiment; that there is no reason to believe an Upper House will ever resist a popular craze; and that to define the House of Commons as a body likely to be carried away by a popular craze is a tolerably effective way of producing the tendency in question. It might be said, in brief, that to create for ourselves a Second Chamber on the understanding that it is to resist our own hasty proposals, is on a par with resolving always to walk into another room when one is tempted to speak angrily or without sufficient thought. If one can be deliberate enough to go into the other room, one can do as well without going."[2]

[1] "The Question of the House of Lords," pp. 334, 335.
[2] *Free Review*, December, 1894.

On the other hand, the believers in the "bicameral superstition" have a good deal to say in support of the faith that is in them. They admit that the case for a Second Chamber has been prejudiced in Great Britain by the House of Lords, which has with hardly a single exception done anything to justify its existence excepting as a brake on the wheels of progress. If the only object of a Second Chamber is to be like the cannon ball chained to the ankles of a slave, a constant impediment to progress, then the House of Lords need fear no hostile criticism. But an automatic block might be devised which could postpone legislation at much less cost and with much less friction than a Second Chamber like the House of Lords.

The first argument by which the faith in two Chambers is supported is that the almost universal practice of mankind, so far as mankind has adopted parliamentary government, is to adopt the bicameral legislatures. Even Norway, which only elects a single House, divides it into two assemblies for the transaction of business. Russia, the latest born of parliaments, is provided with a Second House in the Council of the Empire. There is not an English-speaking State that has not two Chambers, except some of the provinces of the Dominion of Canada. Even the new-born legislature set up in the Transvaal is supplied with an Upper and a Lower House. In the American Republic there are the Senate and the House of Representatives at Washington, and similar bodies exist in every one of the federated States. All our colonies have two Chambers.

In two or three of the States which have been carved out of the decaying fabric of the Ottoman Empire there are to be found single Chambers. But the example of Servia, of Greece, and of Bulgaria hardly can be regarded as a counterpoise to the example of all the rest of the most influential parliamentary nations and colonies.

The following is a list of the Single Chamber States:—

Andorra.	Costa Rica.
Bulgaria.	Guatemala.
Greece.	Honduras.
Montenegro.	Salvador.
Servia.	San Domingo.

These States are all of the third and fourth class. In South America all the Republics have elective Senates.

To this objection answer is usually made that this practical universal adoption of the two-Chamber system is in reality but the shadow which the House of Lords has cast over the world. The august mother of Parliaments has brought forth progeny in her own image. The Colonial and American legislatures, the European Parliaments are bicameral because the Imperial Parliament has two Chambers. It is not as if each nation, relying only upon its native wit and commonsense, had arrived independently at the conclusion that a Second Chamber was necessary. The contrary is the case. All these other bicameral arrangements are imitations of their original.

There is, of course, much truth in this. But, on the other hand, there is not so much slavish respect and abject obedience to England among all the nations of the world that they would persist in following our example and perpetuating a mischievous and unnecessary institution merely because of their desire to walk in our footsteps. Granting that at first they followed the lines of the only existing model, they did not do so slavishly. None of them could be induced to create a strictly hereditary Upper Chamber. And what is at least quite as remarkable, none of those nations or States which once adopted the bicameral system has ever abandoned it—with the exception of Greece. Many of them have made and re-made their constitutions; some of them have passed through the ordeal of successive revolutions. But, although they have

shed their dynasties and demolished their thrones, they cleave to their Second Chambers. Nor is there at this moment in any part of the civilised world any serious popular agitation against any Second Chamber save our own.

It is true that there are here and there individuals or groups who profess a more or less platonic devotion to the single Chamber system. Amongst those the most conspicuous personality was that of M. Clemenceau, now Prime Minister of France. But as he was the most prominent assailant of the Senate in former years, so he is the most notable convert to the bicameral system. It is, of course, unsafe to quote an interview as evidence unless the proof has been submitted for revision to the person interviewed. But there seems no reason to doubt the authenticity of the following extracts from interviews with the French Premier which appeared in the London press on December 10, 1906. The interviewer had reminded M. Clemenceau of the days when he had vehemently demanded the suppression of the Senate, and inquired how it was that he reconciled those views with his acceptance of a seat in that body. M. Clemenceau is reported to have made the following reply :—

"It is only stupid people who do not change their minds, and who refuse to admit that they have made a mistake. The great objection which I lodged at that time against the Senate was that it often, and in an arbitrary manner, blocked desirable reforms. Moreover, it showed a conservative spirit which at that time appeared to me greatly exaggerated. But while I continue to make this objection in certain instances I nevertheless now recognise that the action of the Senate, composed as it is of level-headed old statesmen, is a useful necessity, inasmuch as it constitutes a guarantee against the reckless, inconsiderate, and too daring decisions of the Lower Chamber, which is composed of men who are younger and of less mature experience.

"The Senate represents prudence as opposed to the Chamber of Deputies, which represents action. And the more we advance along the path of social reform the more we must appreciate the functions of the Senate, which is obliged to study carefully all new laws, in which the slightest mistake might have the most serious results. And it is for these reasons that I did not

consider it politic to refuse the candidature for the Senate when it was offered to me by the electors of the Var in 1902." [1]

It is noteworthy that the French Radical statesman should indicate the advance along the path of Social Reform as a substantial reason for attaching an increasing value to the functions of a Second Chamber. It is a melancholy reminder of the difference between a real Senate and our hereditary Chamber.

The most conspicuous advocate of a Second Chamber in this country is Lord Rosebery. He is to-day even more emphatic on the subject than he was twelve years ago. In his Bradford speech, October 27, 1894, he referred as follows to the question of one *versus* two Chambers :—

"I confess quite freely that I am a Second Chamber man in principle. I am all for a Second Chamber. I am not for the uncontrolled government of a Single Chamber any more than I am for the uncontrolled government of a single man. The temptation of absolute power is too great for any man or any body of men, and I believe—though I am speaking from recollection—that so keen and ardent a Radical as John Stuart Mill held that opinion too. I am also strongly of opinion that all experience points to having a Second Chamber of some sort ; that, however, does not imply an admiration for the House of Lords. The American constitution-makers, who made the constitution under the inspiration of their fresh breath of freedom and independence, created a much stronger Second Chamber than we shall ever see in this country, and what is more, the feeling of the country on the whole coincides with my principle in that respect. ('No, no.') There may be differences of opinion on that point, and I am aware there are ; but I am bound to tell you what is my conviction. I should not be worthy of your confidence if I did not. But I am bound to say that if I am asked to choose between no Second Chamber at all and a Second Chamber constituted as the House of Lords is—I will not make my choice before this assembly—but I will say that there is ground for hesitation with regard to my principle. The fact is that to my mind it is an absolute danger, an invitation to revolution, that there should be an assembly of this kind in this position ; and therefore it is as a lover of the constitution as well as a lover of freedom that I implore you to take this question into your immediate consideration. If I

[1] *Daily Express*, December 10, 1906.

hesitate between no Second Chamber and the House of Lords—between my dislike for a single Chamber and the doubt as to whether the House of Lords is better than none—it is for this reason, that, in my judgment, the House of Lords is not a Second Chamber at all. I will not say it is a Tory caucus, because that might be considered an offensive expression, and moreover, a caucus is a temporary body. But I will say this, that it is a permanent party organisation, controlled for party purposes and by party managers."

But speaking at Edinburgh on December 11, 1906, he threw aside the hesitation he had expressed at Bradford, and unhesitatingly declared himself in favour of the House of Lords as it is rather than risk a single Chamber Government.

"I venture to think that, though I have spoken more frankly in the House of Lords with regard to its defects than perhaps any other peer, under present circumstances the country would rather preserve the House of Lords than be without any Second Chamber. When the cry was 'Amend or end!' my option has always been amend, and I have never taken the other horn of the dilemma of ending an institution without seeing what is to replace it, more especially as I never knew by what constitutional means it was to be ended. But why is it that the country would prefer a continuance of the House of Lords, even in an unreformed condition, to the prospect of a single Chamber? Well, I think the answer is simple. What the country requires, and what is more especially required by commerce, is that legislation should be wise, deliberate, and well-considered."[1]

The assumption that legislation would be wiser, more deliberate and well considered, by being passed through such a Chamber as Lord Rosebery described at Bradford, can hardly be said to be obvious to the ordinary intelligence.

Lord Salisbury stated the case against what he called "the legislative autocracy" of a single Chamber when he maintained against Lord Rosebery the unwisdom of destroying the legislative preponderance of the House of Lords. If that were done, he said—

[1] Speech to Edinburgh Merchants' Association.

"The House of Commons will be absolutely powerful by any majority, however small, at any notice, however short, to pass any measures which it pleases dealing any blow at any of the institutions of the country. No other country, I believe, is in that position. All other countries have constitutions which cannot be altered except according to a prescribed form by which special majorities are required, and—what is much more important—by which the particular change that is intended is submitted to the nation before it is accepted. That cannot take place under our constitutional machinery as it exists. You cannot say of any Parliament with absolute certainty that it has been elected for the passing of a particular Bill. There is a greater or less approach to that certainty, but the entire certainty never can be obtained. As a general rule an election represents the result of a great number of combining forces; the chance popularity or unpopularity of individual statesmen, the desire for some particular measure affecting local interests in one part of the country or another, and sundry other disturbing causes of that kind which, speaking generally, have the result that an election is not an expression of the ascertained and definite public wish in favour of a constitutional change such as is obtained in all other countries where fixed constitutions exist. Now, of course, that involves that every great change may be passed by the very smallest majority without the real sanction of the people of this country, and it may well be that the change is of a character which, once it has been passed, cannot be repaired, that destruction when once it has taken place cannot be effaced, that the steps which have been taken cannot be retraced." [1]

This may be taken as a fair statement of the argument against the autocracy of a single Chamber, an argument which has sufficient weight to put the opponents of the "bicameral superstition" out of the pale of practical politics.

"The large majority of Radicals," said Mr. Labouchere in 1894, "are for abolition pure and simple." He wrote:—

"With regard to the respective advantages and disadvantages of one or two Chambers, the Radicals prefer one Chamber. It is a principle with them that no man should be invested with legislative functions who is not elected thereto by the direct vote of all in possession of the Parliamentary franchise; and they fail to see what would be gained by two Chambers, both elected under the same franchise. But if the representatives of the

[1] House of Lords, July 6, 1894.

people, after they have acquired full power to deal with this question as they please, should be for two elected Chambers, the Radicals would accept this, for it is a matter of detail in procedure rather than of principle."[1]

If this is all that the most extreme exponent of a single Chamber can say—that the question of one Chamber or two "is a matter of detail in procedure rather than of principle," there would not appear to be much reason to dissent from Mr. Frederic Harrison's emphatic declaration that government by a single Chamber is not a possible solution in the present state of public opinion.

It is worth remembering that the only time the forces of English Toryism were beaten flat, their triumphant opponents, after a very short experience of government by a single Chamber, came to the conclusion that a single Chamber stood in need of "a check or a balancing power." Mr. Firth, writing in *Macmillan's Magazine* on Cromwell and the House of Lords, says:—

"The quarrel between the army and the Parliament in 1647, followed by the breach between the two powers which ended in the rupture of 1653, had produced in the minds of the officers a deep distrust of omnipotent Parliaments. They had learned, as they said in one of their declarations in 1647, 'that Parliament privileges as well as Royal prerogative may be perverted and abused to the destruction of those greater ends for whose protection and preservation they were intended, viz., the rights and liberties of the people.' A House of Commons of unlimited powers, always in session, not content with its proper business of legislating, but taking upon itself by its committees to supersede the ordinary courts of law, uniting in itself the legislative, judicial, and executive powers, seemed to Cromwell and his officers 'the horridest arbitrariness that ever was exercised in the world.'"[2]

The late Lord Hobhouse was one of the most Radical lawyers who ever sat in the House of Lords. He had no love for the Chamber which he adorned. To him it seemed monstrous that no great measure

[1] *Times*, December 1, 1894.
[2] *Macmillan's Magazine*, December, 1894.

of reform could be carried unless we get up "the necessary little rebellion." But his practical experience as a judge led him to recoil from the proposal to legislate by a single Chamber. He said:—

"We want a great amount of legislation, and we want our laws turned out in a workable state. Now the composition and procedure of the House of Commons is such that it does not infrequently turn out some very rough work, which even its well-wishers are glad to have an opportunity of reviewing. It is impossible to deny that through hurry, through inadvertence, through excess of work, through weariness of long combat, through casual combinations of different groups of men, Bills may pass which it is very desirable to reconsider, and which any body of responsible men would think it right to modify or reject, and in so doing would meet with general support.

"The House of Commons does not act in most matters till the nation has been persuaded, and then it acts with a velocity which might without public detriment be greater. But I am afraid of a number of small mistakes; and I have never heard any suggestion of a corrective machinery in the House of Commons itself likely to be so efficacious as a Second Chamber." [1]

Mr. Goldwin Smith has repeatedly expressed his conviction that the disappearance of a Second Chamber would convert Parliament into "an organ of revolution," but he may be regarded as being in Radical eyes a somewhat discredited witness. But the course of events since 1894 has converted many Radicals who were single Chamber men to the "bicameral superstition."

The Radicals have learnt that it is not impossible for their opponents to command an absolute majority in the House of Commons for ten years on end. They have been a minority and a powerless minority without even an opportunity of articulate protest. During the critical period before the Dissolution of 1905, the House of Commons was practically gagged. The wiles of Mr. Balfour, aided by the ruling of a subservient Speaker, rendered it impossible to discuss

[1] *Contemporary Review*, December, 1894.

the great issue of Free Trade *versus* Protection in the Commons House of Parliament. It was only in the House of Lords that free speech found a refuge in those dark days.

Nor was it only that by the suppression of free debate by a Parliamentary majority that single Chamber men found cause for reconsidering their clear conclusions in favour of dispensing with an Upper House. The Closure dates from the early eighties. But Closure by compartments and the Guillotine belong to the nineties. The result of the Guillotine by which all the clauses of a Bill remaining undiscussed by a certain date are bolted through the House without discussion of any kind, supplied the final argument in favour of a Second Chamber. If legislation is to be carried on by discussion, if one essential principle of Parliamentary government is the consideration of measures, clause by clause, by a deliberative assembly, it is indispensable to supply in another place the necessary machinery for considering and revising the rough, unamended work of the Ministerial draftsmen.

"As a matter of fact," says Lord Ribblesdale, "a Conservative administration means single Chamber work." The result of a ten years' experiment does not encourage us to make it permanent.

But the inadequacy of the House of Lords as a revising Chamber, and its utter failure as a co-ordinate branch of the legislature are so manifest that it has now combined against it the small number of single Chamber men and the much larger and more influential number of advocates of a real Second Chamber, to whom, if possible, this travesty of a Senate is more abhorrent than it is to any other class of the community.

CHAPTER IV

REPLACE IT BY A SENATE

IT must be admitted that the advocates of the establishment of an entirely new Senate in place of the present House of Lords are not very numerous. There are many who would end the hereditary branch of the legislature. There are many who would mend it. But there are very few who would set to work to create a Senate to take its place. The fact may be deplored, but that it is a fact no one can deny.

"We do not wish to speculate on Second Chambers," said Sir Henry Campbell-Bannerman many years ago,[1] and he expressed, as he usually does, the sentiment of the great majority of his party. Sir W. Harcourt once declared with emphasis :—

> "We are not going to create a new body with larger powers of obstruction than those now possessed by the House of Lords. If there is to be a Second Chamber at all it must be a Second Chamber which has a great deal less power, and not more power than the House of Lords to overrule the power of the House of Commons."[2]

In none of the resolutions passed at Liberal meetings has the creation of a brand new Senate ever been advocated. The object of all these resolutions has been destructive. No constructive policy has ever been

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[1] Hawick, January 7, 1895.
[2] Derby, January 24, 1895.

suggested. To curtail the power of the Peers—to dispense with their veto, or to abolish the House itself, all these courses have been recommended time and again by statesmen and by Caucuses. But to replace the hereditary Chamber by a real Senate, that solution has been put forward, not by Radicals but by Conservatives, who were Conservative enough to view with alarm the frailty of our Second Chamber as a bulwark against revolutionary change. Such a man as Mr. Goldwin Smith, for instance, is impatient to replace the House of Lords by a Senate frankly placed on an elective basis. By this means he thinks the Second Chamber would be—

"Reanimated and strengthened, made once more a co-ordinate branch of the legislature fitted to become the bulwark and the rallying-point of the rational conservatism of the country." [1]

Lord Hobhouse, whose views in favour of a revising body have already been quoted, regarded the constitution of a good Second Chamber as a matter of great importance. The following were his suggestions as to the way in which this desirable end could be attained :—

"It would greatly strengthen the House of Lords to put an end to all hereditary rights of legislation (except perhaps in the very peculiar case of the Royal Family), and to make it a working body, not liable to irruptions of inexperienced men whipped up for special political combats. Each member should hold his position for life or during some office.

"The House should have enough members to man its Committees, and to supply sufficient variety of thought and experience to its debates, and to give weight to its decisions. If there were (say) from 200 to 250 men appointed for life or *ex officio* to serve in the House, it would probably make as strong a body as the nation would want. Then members should be allowed to resign their seats at will, and all peers not in the House of Lords should be quite free to enter the House of Commons.

"So with regard to hereditary lawgivers: the House of Lords has existed without them; it existed for centuries, during the period of its greatest power, with a majority of life-peers,

[1] *Nineteenth Century*, March, 1894.

unless, indeed, the prelates are to be ranked as *ex-officio* peers. And as to recruitment, the will of the Crown is the recognised constitutional method."[1]

To the objection which most Radicals would make that this Second Chamber would be as great a block on progress as the present House, Lord Hobhouse replied as follows:—

"Then how shall we prevent the Second Chamber from becoming obstructive? In order to be efficient, a power to review must include a power to reject when necessary; indeed 'amendments' so-called, may, and frequently have been, so applied as to amount to destruction. It would probably be idle, and certainly undesirable, to limit the area of review. But the power may be effectually controlled by providing that when it has been exercised to some prescribed extent it shall not prevent the passing of the measure reviewed. If it were provided that after (say) a second rejection by the Peers of a measure passed by the Commons, or a second alteration of it, the Commons should have power to resolve that the measure ought to become law notwithstanding the opposition of the Peers; and if it were provided that the Commons should be the sole judges whether the measure was substantially the same as had been rejected or altered before; and if it were provided that upon such a resolution of the Commons the Royal Assent might be given to the measure, and so it should become law; and if similar arrangements were made with regard to schemes or other sub-legislative matters, we should see the will of the majority prevail, when it ought to prevail, without ruinous delay or stormy agitation."[2]

A distinguished member of the Upper House, when consulted recently as to his views on the question, replied to his interviewer:—

"'I think the line of least resistance would be to continue the bi-cameral system, but to convert the House of Lords into a really representative Second Chamber, which would enable us to utilise many capable minds at present shut out from the service of the nation, and supply a House of Revision which would not confine itself to saying ditto to everything a Tory majority in the Commons may say, and to vetoing everything a Liberal majority may propose to do.'

"'Have you any ideas as to how it should be constituted?'

[1] *Contemporary Review*, December, 1894. [2] Ibid.

"'I think a mixed Chamber would be most easily put together. The nobles might elect, say, fifty of their own number. To them might be added a certain number of administrators and officials who have held the highest posts in the Empire. But the bulk of the new Senate would be elected by the County Councils and the great cities—say two from each county and one from every city of 300,000 inhabitants.'

"'Would you turn out the Bishops?'

"'I am not sure. But if they were allowed to remain, I would add the Moderators of the General Assemblies of the Presbyterians, the President of the Wesleyan Conference, the chiefs of the other Free Churches, and the heads of the Roman Church. By this means we might get a real Second Chamber which would command the respect of the country.'

"'Might it not be too Conservative?'

"'Possibly. In that case its veto might be limited so as to be exercised only once, or other arrangements might be made to secure its submission. We have got to risk something. And the present House of Lords is hopeless.'"[1]

Lord Dunraven's proposals for the reform of the House of Lords were based to some extent on these principles. He advocated the reduction of the British temporal peers by a system of election to 180, and the addition of 130 elected members chosen by the County Councils and the great cities. The Bill gave rise to an interesting discussion, but was not proceeded with.

As a rule Radicals resent the notion of a Senate, but there are some who will consent to discuss the question if they can be assured that the basis of the Second Chamber is to be "frankly democratic." By this they mean that it shall not be hereditary, that it shall not be nominated, and that it shall not be the result of a system of secondary election. When they are reminded that in the two great Republics, of France and America, the system of secondary election prevails, they reply that the movement in favour of the direct election of senators is growing in America, and in at least one Western State the choice of the legislature is practically dictated by the mass vote of the people. What they mean by "frankly democratic" is a Senate elected as are the senators in the Australian Commonwealth, by the same

[1] *Review of Reviews*, May, 1906.

electors as those who elect the House of Representatives but voting in larger constituencies. In Australia the electors in each colony vote as in one electorate, and the senators sit for six years, while the Lower House sits for three. One half of them retire every three years. It is suggested, for instance, that the Senate should be elected by the same electors on the register voting under a system of proportional representation in huge constituencies, as, say, London, Wales, Scotland, Ireland, Lancashire, Yorkshire, while the rest of England might be carved up into half a dozen territorial units, each returning, say, ten members per million of population. The age of senators might be fixed at 35, and they might be elected for fourteen years, one half retiring every seven years. By this means a "frankly democratic basis" would be secured for the Senate, and the smaller body, elected by larger constituencies and never entirely renewed at one election, would preserve a certain continuity of tradition and an independence of character not possessed by the House of Commons.

It may be noted that several constitutions stipulate that legislators must at least have attained years of discretion before they take their seats. In Prussia, Bavaria, and in Italy no one can be elected to the Lower House until he is 30 years of age. In Belgium a senator must be 40 years old. Members of the Lower House can be elected when 25, the same as in Denmark, Roumania, Sweden, and the United States of America. No man can be a senator in America until he is 30; the same law prevails in Mexico and the Argentine. In Brazil, Peru, and in Sweden the limit is 35, but in Roumania senators must be 40 years of age.

Senators are usually elected for longer periods than members of the Lower House. In France, for instance, senators sit for 9 years, deputies 4; Belgium, 8 and 4; Denmark, 8 and 3: Roumania, 8 and 4; Sweden, 9 and 3; United States, 6 and 2; Argentine, 9 and 4; Brazil, 9 and 3; Chili, 6 and 3; Japan, 7 and 4.

In many States senators are nominated for life, as in Prussia, Austria, Italy, &c.

It is only in Bolivia (4 and 4), Hayti (5 and 5), Mexico (3 and 3), Paraguay (4 and 4), Venezuela (4 and 4) that senators and deputies are elected for the same term. Peru is the unique instance in which senators (5 years) are elected for a shorter period than deputies (6 years).

English public men are loth to indulge in speculation as to the construction of a new building until there is reasonable prospect that the old tumble-down edifice which occupies the site will be cleared out of the way. Hence there are few public men on either side of politics who have published any definite proposition for the creation of an English Senate. Almost all proposals which have been brought forward of late years are based upon the acceptance of the House of Lords as an institution, and their suggestions are limited to making the best of it, tinkering it here and mending it there, and infusing into it more or less of a new element in the shape of life-peers and nominated members. Those who propose to create a new Senate after the total abolition of the House of Lords who object to the frankly democratic proposal to elect the Second Chamber by the direct vote of the present electorate, for the most part incline to a purely nominated Chamber. This would be comparatively small, consisting of a hundred members nominated by the Government for the time being, for life, or for aterm of years ; the selection being made for the most part from certain general categories, but with a free margin in which the discretion of the Ministry can be exercised. This Chamber would be almost entirely a revising body. If it were allowed to reject a measure once, it would not be allowed to do so twice. Its primary function would be to correct errors of draughtsmanship, and to consider Bills sent up from the House of Commons, as more or less imperfect expressions of the national will, which it would be their duty to examine carefully and amend judicially in order to give more exact effect to the will of the nation. Such a Chamber of nominated revisionists would never arrogate

to itself the right to interpret the will of the nation, for it would be entirely subsidiary to that of the House of Commons. Such a Senate would be one of draughtsmen rather than of legislators. As recent experience has shown, errors of draughtsmanship may nullify the efforts of the legislator. In the case of the responsibility of Trade Unionists for injuries caused by strikes, the law, after a lapse of thirty years, was discovered to say not that which every one, including its authors, had believed that it said. Whereas in another case the financial basis of denominational schools remained for some months in a condition of harassing suspense, owing to the inability of the Courts to agree as to the precise meaning of an Act of Parliament passed as recently as 1902.

The third suggestion, which finds most favour, and which in one form or another will probably be adopted, is that of a mixed Senate. A certain number of hereditary peers would be left, but the majority of the House would be composed of non-hereditary senators, selected from certain wide categories by the Crown. A Senate so constituted would be very influential from the mere character, judgment, and independence of its individual members. But its nature and constitution would preclude it from all rivalry with the House of Commons as an exponent of the national will, and in the case of a collision with the House of Commons the latter would undoubtedly prevail. What arrangement should be made for securing that the will of the House of Commons should be supreme is an important point. The expedient usually favoured by senate-makers is that adopted by the Transvaal and Orange Free State Constitutions, which represent the latest product of British constructive statesmanship. Under these Constitutions when difficulties arise the two Houses sit together as one, and the majority decides. It is worth while noting that in both these Constitutions the Upper Chamber, which corresponds to an imaginary Senate and takes the place of the House of Lords, is at first exclusively composed of nominees of the Crown.

The criticism to which the various types of alternative Upper Houses are subjected is that they are gimcrack, newfangled inventions which have no history behind them, and therefore would harmonise ill with the ancient traditions of our country; to which the answer is that when ancient traditions conflict with modern necessities it is the former that must go to the wall.

CHAPTER V

HOW TO BELL THE CAT

"I AM quite certain," said Macaulay, in 1838—

"That in a few years the House of Lords must go after Gatton and Old Sarum. What is now passing is mere skirmishing and manœuvring between the two general actions. It seems to be of little consequence to the final result how these small operations turn out. When the grand battle comes to be fought, I have no doubt of the event."

Instead of going the way of Gatton and Old Sarum the House of Lords in the Victorian Age very decidedly extended its functions, even in the financial domain, from which it was supposed to be excluded. Nevertheless, so acute an observer as Sir William Anson, whose authority as a student of our Constitution no one will gainsay, has expressed grave doubts as to the stability of the hereditary Chamber, or its chance of surviving a serious conflict with Democracy. He says:—

"In abolishing the House of Lords it would feel that a striking legislative reform had removed an obstructive influence; that its power had been manifested in an impressive and at the same time a useful change. In truth, it may be said that any part of our Constitution which cannot furnish offhand a commonplace reason for its existence may fare as ill at the hands of the newly-enfranchised electors as a Dresden china ornament in the clutches of a strong and inquisitive infant. . . .

"It must be admitted beyond doubt that, though threatened men live long, the House of Lords as at present constituted is

not as firmly fixed in our institutions as it was when Macaulay prophesied its speedy extinction in 1838."[1]

It is comforting to think that so impartial an onlooker as Sir William Anson thinks that the House of Lords, face to face with the democracy, is as helpless as a Dresden ornament in the clutches of a strong and inquisitive infant. The metaphor is striking, and it ought to encourage the infant.

John Bright, twenty-four years ago, declared that—

"A House of Legislature hereditary and irresponsible cannot be a permanent institution in a free country."

And again in the following year he said:—

"It is not consistent with the character and freedom of a great nation that an irresponsible House—a House that is not representative—should have the power every few years to bring about a great and grave crisis."[2]

His verdict was emphatically confirmed by a peer who is now the leader of the House of Lords, the Marquis of Ripon, speaking at Birkenhead, November 3, 1898. Lord Ripon said:—

"The House of Lords is altogether an anomaly in democratic times like the present. The system is utterly illogical, I had almost said absurd."

Mr. Morley is not a sanguine man, but he has the instinct of the historian, and he has declared:—

"We are moving away in every direction and in every quarter from privilege and from the hereditary principle. That weakens the whole foundation on which the power of the House of Lords rests. It is cracking and crumbling in every direction. . . . In dealing either with the position or the composition of the House of Lords, the first step that we have to take in that direction is to affirm that the accident of birth no longer confers the right to make laws for a free and self-governing people."

[1] "Reign of Queen Victoria," 1897, vol. i. pp. 135–6.
[2] "Bright's Speeches," Leeds, 1883; London, July 11, 1884.

To these confident anticipations may be added some already quoted, such as that of Sir Robert Reid before his elevation to the woolsack, Mr. Augustine Birrell before he was a Cabinet Minister, and Mr. Gladstone in the last days of his Premiership, all of whom appear to believe that the Peers need only to be confronted by a majority, elected on an appeal *ad hoc*, on the question of their right to exist and to legislate, in order to induce them to commit the happy despatch. According to these optimists the Peers have only to be told to go and they will obligingly disappear.

Such calculations are based upon misleading analogies and inapplicable precedents. The Lords have never yielded at a mere word of command even when nothing was at stake but some of their privileges, property, or prerogatives. They always need to be menaced. Where what Lord Hobhouse calls the necessary little rebellion is set agoing they give in. When no such incipient insurrection can be got up they hold out. If this be the case in comparative trifles, those who think that the Peers will consent to sacrifice their veto or their existence without considerable rough handling have but scanty justification in past history for the faith that is in them.

Skin for skin, all that a man hath will he give for his life. But his very readiness to part with his skin to avert death is a proof that to retain his life he will fight to the last gasp. We may take it as certain that the Lords will not surrender their veto or their right to sit as Lords in Parliament without much more effectual methods of persuasion than the election of a parliamentary majority or the passing of the greatest of resolutions.

There is only one argument which the House of Lords understands, and that is an appeal to *force majeure*. Before they can be made to listen to the national mandate it must be thundered in their ears through the megaphone of national agitation. In the past that megaphone has been found inadequate without actual tumult and violence. It is to be hoped that,

in the twentieth century, more civilised methods of pressure may be found adequate. But popular pressure to be effective must not be less irresistible than that which crushed the boroughmongers of 1832.

The late Earl of Kimberley made use of a striking phrase which is worth remembering in the campaign upon which the nation is entering. Speaking of the passage of the Parish Councils Act, Lord Kimberley said :—

"We have got the measure, we have got the villagers enfranchised; given them power to manage their own affairs, the protection of the ballot, votes equal to the squire and the parson; but no thanks to the House of Lords for it. We have got it in spite of the Lords, and *it has been wrung from them only through their cowardly fears.*"

It is "through their cowardly fears," and "through their cowardly fears" alone, that anything can be wrung from the House of Lords, whether it be a limitation of their veto or their total abolition.

The problem, then, is simple. How can we best work upon the "cowardly fears" of the Lords?

Civil war, or even the near approach to it, which was necessary in 1832, may be dismissed as unthinkable. We are not going to burn our house down merely to roast this aristocratic porker, neither can another Guy Fawkes, with his powder barrels, be regarded as one of the available resources of civilisation. What, then, must be done?

Lord Rosebery, who rode gallantly at the fence in 1894, shied when it came to jumping. After appealing to his hearers to give him a mandate to secure the preponderance of the House of Commons over the House of Lords he never went on to say how he proposed to execute it. Like the famous plan of General Trochu, that was a secret.

On one occasion, when his audience was all agog with anxiety as to how he intended to bell the cat, he said: "When we have obtained our mandate—I will not say now the exact course we shall pursue, because we must

have our hands free; but we shall be prepared to state that course, subject to the limitations I have expressed, at the proper time to the proper tribunal, and that is the House of Commons." There is not much light and leading here, it must be admitted. But neither is there much elsewhere.

One thing is at least certain. Whether it is decided to limit or destroy the veto, to reform or to abolish the House of Lords, no proposal, however sugar-coated, will be accepted by the Peers until there has been so strong, so sustained, and so resolute an expression of national feeling as to bring "their cowardly fears" into play. That national feeling must in the first case manifest itself in the usual way. Public meetings, great popular demonstrations, resolutions, and all the familiar manifestations of public discontent—these of course. The House of Commons must act as the leader and exponent of the national sentiment, and at the psychological moment it must fling down the gauntlet and appeal to the constituencies for a mandate in terms clear and unmistakable. As to when the appeal shall take place that is a matter of tactics. The policy of "filling up the cup" has its fascination, but it is not without its dangers. But come it soon or come it late by the laws of the constitutional game the House of Lords has a right to ask that the question of its life or death should be submitted to the electors. Lord Salisbury once wrote in a letter addressed to the *Times*:—

"That he had spoken and voted in favour of the Disestablishment of the Irish Church in 1869, after having spoken and voted against it in the preceding session, not because he had changed his opinion—he still considered the measure to be founded on dangerous principles, and likely to lead to the gravest evils—but because a greater authority than the House of Lords had spoken, and the powers of the House of Lords were limited by the ascertained will of the people."

To ascertain the will of the people on a constitutional question of such magnitude the Lords might properly

demand a General Election, nor would there be any indisposition on the other side to appeal to the Supreme Tribunal. But, supposing we have the preliminary agitation and a resolute House of Commons; supposing, also, that the chapter of accidents does not thwart Parliamentary strategy; supposing, further, that an immense Liberal majority is elected with an express mandate to deal with the House of Lords, what then? The Lords, in 1906, showed scant respect for "the ascertained will of the people," registered at the ballot-box on the Education Bill. Are they likely to be more submissive when the question at issue is their own existence? They are constitutionally masters of the situation. No Bill, not even a Money-Bill, can become law without their consent. In demanding their disappearance or the abolition of their veto we are making a revolutionary demand and at the same time are unwilling to employ revolutionary means of enforcing it.

Sir Henry Campbell-Bannerman declared at the close of last session that "the resources of the British Constitution are not wholly exhausted." That, no doubt, is true. They are inexhaustible. Daniel O'Connell declared that in the Constitution there are resources to meet any emergency, and to prove his case mentioned half a dozen revolutions or changes of the Sovereign or the dynasty effected by what lawyers denounced as gross irregularities, but which, nevertheless, became the foundation of the British Constitution. But the very instances which he gave to prove his case show that the resources of the Constitution include illegality and revolutionary violence. We want neither.

Is, then, the situation desperate? Far from it. There is a short and easy way of dealing with the Lords, which involves no breaking of conventional crockery, no appeal to revolutionary violence, no need even for a dissolution. Everything can be done decently and in order, and the necessary transformation effected before midsummer. The resources which the Constitution has provided for

overcoming the opposition of the Lords are (1) the prerogatives of the Crown which, in Mr. Dicey's phrase, have become the privileges of the people, and (2) the power of the purse. With the Royal prerogative and the taxing power of the Commons, it ought not to be necessary even to play upon "their cowardly fears," for they would be powerless to resist.

Let us see, then, how these weapons in the arsenal of the Constitution can most effectively be brought into operation. But before discussing that question it may be well to clear the ground by noticing two preliminary obstacles that must be removed if we are to appeal to the country on this question—a course which is not necessary if the King and Cabinet are resolute. If the House of Commons is to lead this campaign against the Hereditary Chamber it must first of all put its own House in order. The one great argument in favour of the Hereditary House is the horribly slovenly, ineffective methods by which, notably in the late Parliament, the elected House transacted, or failed to transact, its business.

"The House of Commons is so fettered by its rules, so overwhelmed by the quantity of its business, and held so tightly in the grasp of the party system, that free discussion is always difficult and sometimes impossible." [1]

"The 'impotence' of Parliament has become a commonplace of political controversy. But obviously if an assembly is impotent—impotent to perform its functions of rapid and effective legislation, and impotent to control its own members—it needs a helping, sustaining, and revising hand somewhere. Thus the old constitutional duty of the House of Lords becomes of much more actual and practical importance." [2]

"The House of Commons has ceased to be a deliberative Assembly or a National Council, and has become a mere cockpit of faction; though it sits interminably, it cannot get through business, because its time is filled with party wrangling; it has lost even its power of preserving order, or the decency of its debates." [3]

[1] Low's "Governance of England," p. 247.
[2] *The New Review*, March, 1894.
[3] Goldwin Smith.

Such are a few of the complaints made against the Lower House, and although they may be exaggerated, no one can deny that the practice indulged in of late years of bolting Bills through the House by guillotining debate has reconciled many to a Second Chamber. The present House of Commons has done much to restore public confidence in the elected Chamber as an instrument of legislation and as an arena for debate. Under Mr. Balfour's leadership it was in danger of perishing beneath general contempt.

The second danger is the risk of dividing the popular forces on the eve of a decisive combat. If the House of Lords is to be attacked in grim earnest the Liberals must be a united army, and they must choose as their battlefield some question which will divide them least. It is obvious that both the temperance reformers and the Irish Nationalists have everything to gain and nothing to lose by postponing the discussion of the reforms on which they have set their hearts until after the House of Lords has been dealt with. For so long as the House of Lords sits in its present place of power neither Temperance Reform nor Home Rule have any chance of gaining anything more than a debating society dress parade in the House of Commons and summary extinction in the House of Lords.

What it is that will unite the party best and divide them least, what will excite most enthusiasm in the country and lead to least loss of votes at the ballot-box, is a question which must be left to the decision of the wisest heads of the Liberal headquarter staff. From many points of view a comprehensive Land Bill has many attractions. If it could in some way be linked up with a scheme for old age pensions and the payment of members, the programme from a democratic point of view would be hard to beat. But these are matters of detail. It is easy to see what measures should not be thrust to the front, more difficult to select the right issue.

We now come back to the question that would arise

after the nation had given its ministers a mandate to deal drastically with the Hereditary House. What then?

The new House of Commons, full of zeal and hot with the fire kindled by the electioneering campaign, is ready to carry once more the famous resolution of 1649:—

"That the House of Peers in Parliament is useless, dangerous, and ought to be abolished. And that an Act be brought in for that purpose,"

or any watered-down variant of the same. The resolution is passed, the Bill introduced is carried through all its stages and sent up to the House of Lords, with an intimation that they will do well to commit hari-kari with the utmost expedition.

The Lords will either accept the Bill or they will reject it. Their favourite third device of mangling will hardly stand them here in good stead. If they pass it they vanish from the scene. If they reject it——?

That they will reject it may almost be taken for granted. After all, the peers are Englishmen, and they are not of a breed that hoists the white flag on the first summons of "Hands up!" In any case the most sanguine Radical will admit that there is at least an off-chance that they may be stubborn and refuse to sign their own death-warrant. The possible recalcitrance of the Peers cannot altogether be left out of account in the calculations of the Reformers. What would we have to do then?

The usual reply is that we must advise His Majesty to make peers, as many peers as may be necessary, to overbear the opposition of the majority of the Lords in Parliament, that in fact the Liberal Ministry must have anticipated the deadlock and refuse to carry on the government until they have the signed and sealed promise of the King to create the necessary peers. This method of procedure is modelled upon the precedent of 1832.[1]

[1] See previous chapter, How the Reform Act was Carried.

The lethal weapon that dealt the *coup de grâce* to the resistance of the Peers was thus described by its author, Sir H. Taylor, the King's private secretary, in a letter to Lord Grey, May 20, 1832 :—

"I stated to those with whom I communicated, and without any restriction as to their use of the authority, that in case any obstacle should arise in the progress of the Bill, your Lordship had His Majesty's authority to submit to him such a creation of peers as should be sufficient to carry the Bill, and I added that they, therefore, had before them the alternative of the Reform Bill with an addition to the Peerage, or the Reform Bill without it."

The Peers capitulated. All further opposition to the Bill was abandoned, and the Reform Bill receiving the Royal Assent, soon after became the Reform Act of 1832, the foundation of our modern Parliamentary system.

As it has been, it is argued, so it will be. Another Lord Grey will coerce the successor of William the Fourth, and the Lords Temporal and Spiritual will surrender not only their privileges but their very existence to a threat. Mr. Theodore Dodd exclaims :—

"The threat will be sufficient. The lords dislike revolution, &c., as much as kings do. They have nothing to gain and much to lose; while, after all, the regulation of the suspensory veto will not deprive them of their lordly privileges, so that they are not likely to drive the Commons to refuse supply; and it would obviously both lessen the value of their peerages, and weaken the prestige of their House, if they waited till the Sovereign created a number of new peers to outvote them."[1]

Mr. Theodore Dodd, it will be noticed, assumes that the Bill will merely "regulate the suspensive veto." Even he does not venture to prophesy an equally prompt acceptance of a Peers Extinction Bill. But even so limited there are some reasons for doubting whether we can calculate too confidently upon the prompt capitulation of the House of Lords.

In the first case the necessary number of creations in 1832 was small. The hostile majority in the critical

[1] "The House of Lords Question," p. 287.

division was only 35. Fifty new peers, a quota easily made up from lists of younger sons and childless aristocrats, would have sufficed then. It would not suffice to-day. The majority to be overborne is nearer 500 than 50. Of course Mr. Labouchere may have his brigade of shoeblacks of adult age ready to accept peerages in order to expunge the hereditary principle from the British legislature, but to make 500 peers would be for most men a much more drastic operation than the creation of 50. It is, of course, possible that the creation of a first instalment of 10 per cent. would suffice to convince the Peers of the futility of resistance. The two-handed engine at the door, that has struck once and may strike again, has a certain persuasive eloquence which might work wonders.

But in the second place, the Peers might be encouraged to refuse to yield to the threat of new creations, knowing as they do from Lord Brougham's frank admission in after-years that the famous threat to swamp the House in 1832 was mere bluff. In his "English Constitution" he emphatically denied that there was ever any real intention on the part of the Grey Administration of which he formed a part to swamp the Peers. Had it been seriously contemplated he would have opposed it, and he pictures in lively terms the consternation with which he and Lord Grey contemplated the possibility of having to make good his threats. The difficulty which alarmed Brougham, that of having to deal with the House of Peers afterwards, would not, however, appal our new Reformers. For the new peers would but be summoned into life for a single session. Called up to seal the doom of the ancient Hereditary House, they would be but creatures of a day who would perish with the vote by which they terminated the existence of the most ancient of Senates.

There remains a further possibility boldly foreshadowed by Lord Salisbury,[1] that the House of Lords might assert its right to refuse to admit as

[1] Spalding, "House of Lords," p. 103.

members persons who were created hereditary peers with an improper motive. The right to exclude mushroom peers created for the purpose of forcing a Bill through Parliament, thus claimed by Lord Salisbury, might be seriously asserted by his successor when the object of the new creations was to vote the extinction of hereditary legislation.

This danger would have to be faced boldly. It cannot conveniently be ignored. A House of Lords fighting for its life would not stick at trifles, and it might find good constitutional precedents for refusing admission to lords not created for the benefit of the established order of the Constitution of the realm.

Lord Grey's reply to the protestations of the Peers of 1832, that the creation of Peers for swamping purposes was unconstitutional, appears unanswerable. Addressing the House of Lords, he said :—

"I ask what would be the consequences if we were to suppose that such a prerogative did not exist, or could not be constitutionally exercised? The Commons have a control over the Crown by the privilege, in extreme cases, of refusing supplies; and the Crown has, by means of its power to dissolve the House of Commons, a control upon any violent and rash proceedings on the part of the Commons; but if a majority of this House is to have the power, whenever they please, of opposing the declared and decided wishes both of the Crown and the people, without any means of modifying that power, then this country is placed entirely under the influence of an uncontrollable oligarchy. I say that if a majority of this House should have the power of acting adversely to the Crown and the Commons, and was determined to exercise that power, without being liable to check or control, the Constitution is completely altered, and the Government of this country is not a limited monarchy; it is no longer, my Lords, the Crown, the Lords, and the Commons, but the House of Lords—a separate oligarchy—governing absolutely the others."

When the final pinch comes there is no doubt that the power of the Crown to convert every Grenadier Guardsman into a peer of the realm is the *ultima ratio* of the democracy. But it is a remedy so drastic that it is not to be wondered at that even Radicals like John Bright shrank from employing so revolutionary a weapon.

Is there no other way? We have two weapons, the Royal prerogative and the taxing power of the Commons. Can we not make use of the former in conjunction with the latter? Is it not possible to employ the Royal prerogative in some less drastic fashion than the creation of 500 mushroom Peers?

The difficulties in the way of such a frontal attack upon the House of Lords are so obvious that many Liberals have given up hope. They are now, as they have been for years past, prisoners in the dungeons of Giant Despair. But all the while they have had in their pocket a key called Prerogative which would have set them free.

A resolute House of Commons behind a courageous Minister could use the Royal prerogative with such effect as to make the people the masters of the position. Mr. Gladstone's action in abolishing Purchase by Royal Warrant in 1871 showed that a democratic Government can furbish up on occasion rusty and disused weapons in the Royal arsenal to the confusion and the dismay of those who have reckoned without the Crown.

The House of Lords, itself the creation of the Crown, has gradually, almost imperceptibly, usurped some of the prerogatives of its creator. The process is so complete that many people imagine that these prerogatives have ceased to exist. But although disused and in abeyance, they exist, and in them we find the remedy which we seek. The first of these prerogatives is the right of the Crown to summon to the Upper House as Lord of Parliament whomsoever it pleases with or without binding itself to summon to future Parliaments him and his heirs for ever. The second prerogative is the right of the Crown to cease to summon to the Upper House any person, whether peer or peer's son, for whose counsel it has no further any need. Both these prerogatives have been obscured by the complaisance of the Crown and the persistent self-assertion of the Peers. But neither of them has been so much atrophied by disuse as to render it impossible for a bold Prime Minister supported by a patriotic Sovereign and a resolute Commons

to use them for extricating the nation from a dangerous *impasse*.

In the creation of life peers by the Crown and in the withholding of Writs of Summons from peers whose services are no longer needed by the Crown as Lords in Parliament, the people have an effective means for establishing the preponderance of the House of Commons without any need for violent agitation, or even for a dissolution, to say nothing of the last resort of swamping the Upper Chamber by new peers.

This is so startling an assertion that most readers will declare it is too good to be true. But that it is true will be made clear by a plain recital of facts governing the case.

The first fact which it is necessary to bear in mind is that the popular impression that every hereditary peer has a right to sit in the House of Lords as a hereditary Lord of Parliament is entirely false. There are 62 Irish and 21 Scottish peers who are excluded from the House of Lords. The Scottish peers suffer the additional disability of being forbidden to become members of the House of Commons. There are thus peers and peers.[1] If the hereditary branch of the legislature were abolished to-morrow, peers would keep their peerages. But they would cease to be Lords in Parliament. Their social position would be unimpaired. Their estates would not be taken away. They would enjoy their titles as heretofore. Those who were capable might be elected to the House of Commons. But they would enter Parliament as elected persons, not as legislators by right of the accident of birth.

The second fact is that these hereditary peers who

[1] (1) Peers of England, created before the Union with Scotland in 1707; (2) peers of Scotland, created before the same date; (3) peers of Great Britain, created between 1707 and 1801, *i.e.*, before the Union with Ireland; (4) peers of Ireland, created before the same date (*plus* a few since); (5) peers of the United Kingdom, created since 1801; (6) life peers, created since 1876; (7) archbishops and bishops, who are not peers, but Lords Spiritual of Parliament.

are at this moment sitting in the House of Lords as Lords in Parliament can not of their own hereditary right claim a seat in the legislature. As each member of the House of Commons sits by virtue of his election to that particular Parliament by the electors of a constituency, so each lord who sits in the House of Lords sits there not by virtue of his peerage but because he has personally been summoned to Parliament by the Crown. Without election by a constituency no man can sit in the House of Commons, without a Writ of Summons from the Crown no peer can sit in the House of Lords. The House of Commons moves for the issue of a writ whenever a seat becomes vacant. The House of Lords has no such prerogative. If the King withholds the Writ of Summons, or if the peer does not apply for it, the House of Lords must legislate as best it can without the presence of the peer to whom in ordinary course a Writ of Summons would be sent. When once the King has sent a Writ of Summons to any one the House of Lords is powerless. The House of Commons can expel any member for misconduct. The grossest misconduct, nay, even felony on the part of any Lord of Parliament bearing the Writ of Summons from the King, does not entitle his fellow-lords to expel him from their midst. The lords have once or twice proposed to acquire this control over the black sheep of their order, but the effort came to nothing. Bankrupts are denied the right to a Writ of Summons by statute. It is the only exception that limits the prerogative of the King in that matter.

A Tsar of Russia is reported once to have explained to a nobleman who was disposed to put on airs that in Russia no one was noble save the man to whom the Tsar spoke, and that he was noble only so long as the Tsar was speaking to him. It may be said in like manner that a peer is a Lord in Parliament only when he is summoned by the Crown to Parliament, and that when once the King summons him to Parliament none of his peers have any right to turn him out. The third fact is that from the very beginning of Parliaments the pre-

rogative of the Sovereign to summon whom he will to be a Lord in Parliament has never been questioned. At first he summoned notables without much distinction of rank—always, however, summoning earls and bishops. Earls at the beginning were no more hereditary than bishops. To them he added other great men whom he desired to consult. But he did not always summon the same men, titled or untitled, to more than one Parliament, nor was it ever expected in those early days that because the King sought the counsel of any man he must therefore accept as councillors the eldest son and grandson of that man. "The King created a man a peer either for life or with hereditary succession according to any line of succession that might be laid down in the patent." By degrees the custom became general of regarding the right to sit in Parliament as a privilege to be handed down from father to son. It must not be forgotten that in those days the Lords Spiritual, who were life-peers, often outnumbered the Lords Temporal, who had gradually transformed a nominated office into a hereditary privilege.

"It must not be forgotten," says Freeman, "that the right of the Crown to create peers for life only had never been surrendered, never abolished, never doubted. But it had gradually gone out of use." The nominated life-peers represented the true ancient stock of the other House, the hereditary peers were the more modern class, "the upstart class," to quote Freeman's striking phrase. But these upstarts, like the cuckoo in the sparrow's nest, wanted the place all for themselves. Hence when in 1856 the Crown attempted to exercise its ancient and till then uncontroverted prerogative by creating an eminent lawyer a peer for life under the title of Lord Wensleydale, the hereditary peers protested. In the judgment of Freeman, with whom also is Stubbs, whose authority on matters of constitutional history is second to none, the action of the Crown in making Lord Wensleydale a life-peer was in accordance with a crowd of precedents and based upon an

ancient and wholesome principle. "But," says Freeman, "with matchless impudence, the hereditary peers, in defiance of precedent, in defiance of law, in gross contempt of the lawful authority of the Crown, refused to let Lord Wensleydale take his seat in the House." This was an act of usurpation on their part acquiesced in tamely by Lord Palmerston, who, four years later, but for Mr. Gladstone, would have allowed a similar usurpation by the Peers upon the money power of the Commons. But it was never sanctioned or condoned either by the House of Commons or the courts of law. Freeman says:—

> "The House of Lords took upon itself, in defiance of the whole history of their order, to refuse admission to a baron lawfully created, lawfully summoned, merely because the Crown had not bound itself in the nineteenth century any more than in the thirteenth and fourteenth to summon the representatives of the baron so created for ever and ever."

The case of the Wensleydale peerage shows (1) that the Ministers of the Crown who had a majority of the House of Commons behind them were firmly convinced that, in 1856, the right to create life-peers was one of the inalienable prerogatives of the Crown; (2) that 137 peers out of 309, who declared their opinion on a division, including pairs and proxies, were also of opinion that the Sovereign might summon any one to be his Councillor without saddling his realm with an endless succession of that man's heirs as Lords in Parliament; (3) that the proposal to refer the decision of the point in dispute to a judicial tribunal was voted down by the Tory majority; and (4) that the final decision taken by a party majority of 35 is the only barrier that now stands in the way of the creation of life-peers.

The Committee of the Peers could not deny that there were precedents existing which proved that life-peers had in ancient times sat and voted in the House of Lords. Neither did they in terms deny the Royal prerogative to create life-peers.

They merely affirmed "that neither the said letters-patent, nor the letters-patent with the usual Writ of Summons issued in pursuance thereof can entitle the grantee therein named to sit and vote in Parliament." Whether this resolution be right or wrong, that is all there is of it. That, and that alone, stands in the way of the creation of any number of life-peers this year. After the report had been approved by a majority of 35, the Government did not divide the House.

But the weakness of that particular Administration does not preclude the present Ministry from making vigorous use of a Royal prerogative which the mere resolution of Lords in Parliament can abrogate or impair. As for the fear that other Royal prerogatives may be furbished up for use against popular liberties, it is enough to remark that a Royal prerogative that is only exercised on the advice of Ministers possessing the confidence of the majority of the elected representatives of the people, in order to make short work of an illegal impudent usurpation by one branch of the legislature, cannot be regarded as a dangerous precedent by the democracy.

As to the question of the advisability of creating life-peers, on its merits, apart altogether from the constitutional value of the vote of the House of Lords in 1856, there is now no dispute.

By the Appellate Jurisdiction Act, 1887, every Lord of Appeal is empowered to take his seat and his oaths at any such sitting and hearing during prorogation; and every retired Lord of Appeal in Ordinary is entitled to sit and vote as a member of the House of Lords during his life, instead of merely during the tenure of office.

"The creation of life-peers," remarked an *Edinburgh Reviewer* in 1895, "is the necessary and primary remedy for the existing defects of the House, and by the acceptance of law peers for life the House of Lords has really admitted the principle which Lord Lyndhurst induced it to reject in the Wensleydale case. It was a principle which so acute a constitutional and political critic as the late Mr. Bagehot pronounced to be an almost perfect expedient."

How to Bell the Cat

Every one who has proposed to reform the House of Lords of late years, not excepting Lord Salisbury, takes the creation of life-peers as his starting-point. If, then, the principle be universally admitted to be sound, if the only obstacle in the way of its adoption is a resolution of the House of Lords in 1856, against which more than a hundred peers and all the Ministers of the Crown in the House voted, it is evident that no moral or legal difficulty forbids the use of this Royal prerogative in order to secure once for all the predominance of the elected representatives of the nation.

So much has been said about the Writ of Summons that it is well to set out its terms.

The Writ of Summons to the temporal peer of England is as follows:—

> "EDWARD, by the grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, to Our ——, GREETING. WHEREAS, by the advice and consent of Our Council for certain arduous and urgent affairs concerning Us, the State and defence of Our said United Kingdom and the Church, We have ordered a certain Parliament to be holden at Our City of Westminster on the —— day of —— next ensuing, and there to treat and have conference with the Prelates, Great Men, and Peers of Our Realm. We, strictly enjoining, command you, upon the Faith and allegiance by which you are bound to Us, that the weightiness of the said affairs and imminent perils considered (waiving all excuses), you be at the said day and place personally present with Us, and with the said Prelates, Great Men, and Peers, to treat and give your council upon the affairs aforesaid. And this, as you regard Us and Our honour, and the safety and defence of the said United Kingdom and Church, dispatch of the said affairs in no wise do you omit.
>
> "Witness Ourself at Westminster the —— day of ——, in the —— year of Our Reign.
>
> "T. —— A Writ of Summons to Parliament the —— of —— next."

The terms of this Writ of Summons suggest the presence in the other House of others than prelates and peers. We read of the "Prelates, Great Men, and Peers of Our Realm." Prelates we know, and peers, but where are the "Great Men"? To supply the "Great Men" by

the addition of life-peers, who will not be hereditary "Peers of Our Realm," would seem to be suggested as a duty lying ready to the hand of the Ministry of the day.

There is a second and not less obvious deduction from the terms of the Writ of Summons. The Writ assumes that the presence of the person to whom it is addressed at Westminster during the whole of the Parliamentary session is commanded by the King. The summons is imperious. "Arduous and urgent affairs" are to be dealt with, therefore "We, strictly enjoining, command you, upon the Faith and allegiance by which you are bound to Us," to be present to treat and give your council upon the affairs aforesaid. The King's business is urgent, therefore no excuses will be tolerated for absence. "And this, as you regard Us and Our honour, and the safety and defence of the said United Kingdom and Church, dispatch of the said affairs in no wise do you omit." By virtue of this Writ of Summons, and by that alone, do the Lords in Parliament sit in the Upper House.

We rub our eyes in amazement as we read the terms of this Writ. Can it be that each of our five hundred odd hereditary legislators received this summons at the opening of this Parliament? If so, what are we to think of their regard for the King and his honour, for the safety and defence of the United Kingdom and Church, exhibited by four-fifths of these august personages? For it is a fact, known and admitted by all men, that the immense majority of the Peers never attended at all. Here, mayhap, we have a useful clue as to the proper step to be taken to rid us of this incubus of hereditary legislators.

That the Writ of Summons meant a summons to attend at every sitting is evident from a Standing Order of the House dating from 1742, which provides that—

"every Lord that comes after prayers, if he be a Baron or a Bishop, is to pay 1s., and if he be of any degree above, 2s. for the poor, but every Lord who comes not at all and makes not his excuse is to pay 5s. for every day's absence."

These fines are not collected. If they were some four hundred of the Peers would have to pay £25 each in fines for neglecting their duties last session. For they disregarded the commands of the King, neglected the urgent summons to do their duty to the realm, and never put in an appearance from one year's end to the other.

In this they acted in accordance with their habitual practice.

"During the whole session of 1894 on no single occasion did any English, Scotch, or Welsh legislation attract the attention of anything like one-half of the hereditary rulers of the land. Barely one-fifth of the House deliberated before rejecting the Government Bill to abolish primogeniture. Less than one-fifth settled the restrictions to be imposed on the Railway Servants' Hours Bill, and set aside the Betterment Clause affecting the improvements of the great City of London. The Scottish Fishery Bill was pulled to pieces by a still smaller band of critics. The Welsh University Scheme was condemned by the aid of forty-one Peers only. The fatal amendment to the Employers' Liability Bill was insisted on as against the House of Commons by less than one-fourth of the Lords."[1]

In the list of the chief divisions of the House of Lords from 1867 to 1898 there were only ten occasions in thirty years when the number of peers present in the House exceeded two hundred. Five of these, or one-half the whole, were nights when the Deceased Wife's Sister Bill was debated. Excluding that comparatively unimportant subject, there were only five occasions in thirty years when the "arduous and urgent affairs" of the State attracted as many as one-third of the whole of our hereditary legislators to the Palace of Westminster. The five occasions were: 1868, when 192 peers voted against the Disestablishment of the Irish Church and 97 for; 1871, 162 for Purchase in the Army and 82 against; 1876, 148 against opening the burial grounds of the nation to Nonconformists, for 92; 1884, 205 against Household Suffrage in the counties, for 146;

[1] "The Liberal Platform."

1893, against Home Rule 419, for 43. Last session the decisive vote that wrecked the Education Bill was carried by 132 to 52—184 out of a total of over 600!

Is it surprising that J. Carvell Williams, when summing up his impressions of the Upper House, should say:—

"I have been chiefly struck by the incorrigible indolence of the great majority of the Peers; by the small amount of time which they devote to public business; by their indifference in regard to matters of great national importance—indifference shown, not merely by a miserable, small attendance, except on rare occasions, but by their apathy and lassitude when they are present. And no public body seems to have less sense of responsibility in rejecting, or mutilating, measures of great importance to the public weal. They will sometimes destroy in an hour or a night the work on which the representatives of the people in the House of Commons have spent many weeks."[1]

The question as to how to deal with the recalcitrant House begins to clear itself. For it stands convicted on its own records of a scandalous disobedience to the Royal Command, which is its sole charter of existence.

In 1888 Lord Salisbury brought in a Bill which provided that when any peer had been proved to be guilty of disgraceful conduct, which appeared "to be inconsistent with his character as a member of the House of Lords," the House might present an Address to the Sovereign praying him to direct that the Writ of Summons should be cancelled, and that the offending peer should be disentitled to sit during the existing Parliament. The Bill was dropped, but we have here a fruitful hint as to the first parallel to be opened against the House of Lords.

The right of the Crown to withhold Writs of Summons has been learnedly argued by Mr. Swift McNeill. He says:—

"The suspension or withholding of a Writ of Summons from a peer is not a proposal of startling novelty. It finds already a place in the Statute Book. The Bankruptcy Disqualification Act,

[1] "House of Lords Question," p. 129.

1871, sect. 8, provides, 'A Writ of Summons shall not be issued to any peer for the time being disqualified from sitting or voting in the House of Lords.' The proposal of withholding Writs of Summons under certain conditions has proceeded from members of the peerage, and has been heard in the House of Lords. Thus the Earl of Dunraven, in moving the second reading of the House of Lords (Constitution) Bill on the 26th of April, 1888, said, 'In one respect only did he touch the rights of the Crown, namely, by enacting that for the future peers on creation should be entitled to a Writ of Summons only after election (by their fellow-peers).' [This, he added, was highly desirable in order to bring about rapidly that reduction in numbers which was one of the main objects of reform.] His proposition involved dissociating in future 'a peerage as an honourable distinction from a peerage as necessarily conferring a seat.' On March 21, 1889, Lord Carnarvon moved a Bill, whose title, 'Lords (Discontinuance of Writs) Bill,' plainly shows that such a remedy was in certain cases within his contemplation."[1]

The Committee of the House of Lords reported in 1625, when King Charles had withheld a Writ of Summons from the Earl of Bristol, that—

"after diligent search no Precedent being found that any Writ of Summons hath been detained from any Peer that is capable of sitting in the House of Parliament, and considering withall how it may trench into the right of every member of this House, whether sitting by ancient Right of Inheritance or by Patent to have their Writs detained, the Lords' Committees are all of opinion, 'That it will be necessary for this House humbly to beseech His Majesty That a Writ of Summons may be sent to this Petitioner and to such other lords to whom no Writ of Summons hath been directed for this Parliament, *excepting such as are made incapable to sit in Parliament by judgement of Parliament or any other legal judgement.*'"[2]

The exception is noteworthy and suggestive.

Mr. W. C. Macpherson, who wrote a book in 1893, in defence of the House of Lords,[3] expresses a very emphatic opinion as to the scandal of the indifference of the Peers to their constitutional duties. He says :—

[1] *Fortnightly Review*, January, 1895.
[2] *Law Journal*, vol. iii. p. 544.
[3] "The Baronage and the Senate ; or, the House of Lords in the Past, the Present, and the Future." By William Charles Macpherson. 8vo. London : 1893.

"The Radical party has a just ground for complaint in the callous and contemptuous treatment of measures that have passed the House of Commons at the hands of peers who, as a rule, take no part in politics, and pay little or no attention to political questions. There are too many peers who stroll down to a great Parliamentary discussion as they might to a general meeting of their club. It is this which arouses so vehement a sentiment of indignation in the Radical bosom. The real levity and the apparent insolence of such handling of great national questions is deeply and bitterly resented, nor is it possible to say that such resentment is unwarranted. This is a great blot on the House of Lords, and a very serious drawback to its efficiency and influence. There are peers whose only purpose in public life seems to be to embarrass their own party, and give the enemy occasion to blaspheme. A peer who steadily refuses to discharge the public duties of his order ought to be debarred from interference in legislation at his sole whim and pleasure. A monarch who feels himself unfit for the discharge of public duties can abdicate the throne. A prince on succeeding to the throne can renounce his right to the succession. A peer can only stop away, and in doing so give the impression of contemptuous indifference" (p. 286).

Lord Dunraven is no less outspoken in his condemnation of this grave scandal. Speaking in 1888 he warned his fellow peers that—

"If territorial influence was to remain a living force in our system, if the hereditary principle was to last among us, it must be purged from a scandal, which, if it was not abated, would one day revolutionise the constitution of the House which he wished to preserve. No man who had observed the signs of the times could fail to see wherein the danger lay. If the hereditary principle was to survive, it must be respected, if it was to be respected it must be relieved of this great disability and detriment."

Here we come out into the daylight. The path is clear before us. Without a Writ of Summons no peer can sit in Parliament. The Crown can lawfully withhold the Writ of Summons from whom it pleases. It is admittedly desirable that it should withhold that Writ from peers who are guilty of disgraceful conduct. "I propose," said Lord Carnarvon, in 1889, "that whenever in the opinion of a judge of a Superior Court, any peer should prove to be guilty of discreditable conduct

which appears to the Court to be inconsistent with his character as a member of the House," the Writ of Summons should be cancelled. The Bill was not carried. But the principle met with general acceptance.

The leading case of the Earl of Bristol in 1625, usually relied upon by the opponents of Mr. Swift McNeill, points powerfully in the same direction. For it expressly by implication states that no Writ of Summons should be issued to those "who are made incapable to sit in Parliament by the judgment of Parliament."

Why, then, should not the judgment of Parliament be invoked and pronounced upon those peers, forming more than two-thirds of the whole number of our hereditary legislators, who stand convicted by the records of their own House last Session of persistent neglect of the duties imposed upon them by the Writ of Summons, of flagrant disobedience to the explicit command of the King, and of habitual disregard of the honour of the King and the safety and defence of the United Kingdom? Why should Writs of Summons be sent ever any more to any of those peers who, being summoned to attend Parliament, have stayed away from Parliament; who, being strictly enjoined and commanded by their Sovereign to put aside all excuses and to assist him with their counsel on certain arduous and urgent affairs threatening him with imminent peril, have disobeyed the Royal behest, and have the whole of last year refused to present themselves in their Council Chamber to render the service demanded of them by the King?

The ordinary practical man of whatever party will only make one answer to that question. Men who have been guilty of neglect of trust have no right to complain if they are relieved of the duties they have conspicuously failed to perform. There can be no hardship in ceasing to send Writs of Summons to men who have treated a previous summons with contempt.

The equity of such a step has been recognised by members of the House of Lords itself. The Earl of

Pembroke in the debate in the Lords in 1888 pointed out that the House might make rules requiring a certain number of attendances as a necessary qualification for the right to vote. Lord Dunraven, in his Bill of the same year, proposed to enact that if the House of Lords chose to make rules regulating the attendance of members, it might, in the event of these rules being violated, present an address to the Crown praying for the withholding or suspension of a Writ of Summons to Parliament in respect of the offending members for such time as the House might suggest. The Crown would then if it thought fit suspend or withhold the Writ by Order in Council.

It is an intolerable presumption to insist upon a right to receive a summons to discharge certain important duties which, although summoned, they have hitherto refused to perform. It can be no hardship to relieve them of onerous obligations which they have never attempted to discharge. Their right to be summoned has lapsed by their own default. They are guilty of lack of loyalty to the King and of regard for the State. They are guilty of conduct so discreditable as to abundantly justify the King in withholding their Writ of Summons. But let everything be done decently and in order and in accordance with ancient precedent. Let the Government bring forward addresses to the Crown in both Houses of Parliament calling upon the King to cancel the Writs of Summons to every peer who in the last session of Parliament has not made at least ten attendances. The figure may be fixed higher or lower at the discretion of Parliament. The motion will be carried by the Commons. It will be thrown out by the Peers. But with the Address from the Commons in their hands Ministers need not hesitate to advise the Crown to cancel the Writs of Summons of the defaulters who have failed to put in the requisite number of attendances.

It may be said that this is to go too fast, and that a resolution of the House of Commons is not "the judgment of Parliament." If this be so, then Ministers can follow

up their Address to the Crown by a brief Bill declaring that it is the judgment of Parliament, that habitual neglect of the duties imposed upon a Peer by the terms of the Writ of Summons is discreditable conduct, inconsistent with the character of a member of Parliament, and that every such person shall be disqualified from receiving a Writ of Summons in the future. It will be sent up by the House of Commons by an overwhelming majority. If it is rejected by the Lords it will afford an admirable text upon which to appeal to the country against hereditary legislators, who either do not consider it discreditable to insist upon the privileges of a position and neglect its duties, or who, considering it discreditable, do not think discreditable conduct inconsistent with the position of a hereditary legislator. But this entails a period of violent semi-revolutionary agitation, which, if the Crown acted upon the address of the Commons, would be quite unnecessary. If the King were to refuse he would be responsible for what Lord Hobhouse called the "little rebellion" needed to make the Peers submit.

In any case the way is clear for the use of the Royal prerogative, first to cancel the Writs of Summons now in the possession of some three or four hundred hereditary legislators, and then for the creation of the requisite number of life peers to assure the preponderance of the House of Commons. Against such a creation nothing stands in the way but the motion passed by the Tory majority of the House of Lords in 1856, which is unconstitutional, illegal, and contrary to well-established precedents.

Nullum tempus occurrit regi. The right of the Crown to create life peers exercised freely in the fourteenth and fifteenth centuries was never taken away or abandoned. A prerogative of the Crown can only be limited by legislation—by the conjoint action of the Crown, the Lords and the Commons; and the Government will be on firm ground if they advise the Sovereign to exercise his prerogative boldly and sagaciously in the creation of a sufficient number of

life peers to make it possible to carry on the Government of the King when the Liberals are in power.

If these life peers should in turn become guilty of the same discreditable conduct, of which the majority of the hereditary peers have been guilty, their Writs of Summons would also be liable to be withheld or cancelled. They would hold their seats on good behaviour.

There remains to be considered the taxing power of the Commons. A vigorous use of the Royal prerogative on the lines indicated above would probably render unnecessary any resort to this financial method of compulsion. But there is one measure which would commend itself very much to the present House of Commons, and to the democracy of Britain.

The cost of electing a House of Commons amounts to a million sterling in every five years. The principle of elective *versus* hereditary legislators has been decided against heredity in every country in the world. The anachronism in this country is still allowed to survive. But as a condition of its continuance why should not the hereditary legislators be compelled to pay ransom to at least the tune of the election expenses of the House of Commons? What is more reasonable and just than for the House of Commons to say "we are against the principle of hereditary legislation. We intend to abolish it as soon as we can. But, meantime, you hereditary legislators must compound for your exemption from the trouble and cost of an appeal to the country by paying over to the National Exchequer the same sum of one million sterling which it costs us to secure our right to legislate for the Empire?"

This would amount to an annual payment to the Exchequer of £200,000. No one can say that it is an exorbitant ransom. The Peers could decide among themselves how they would pay it. They could relieve themselves of its payment altogether by consenting to sacrifice their hereditary privileges as legislators. A few of their number levied an annual sum of nearly double this amount as blackmail from the taxpayer

before they allowed the Irish Local Government Bill to pass. No one can complain that it is excessive. A tax of about £400 per peer per annum for the privilege of being a hereditary legislator would be a mere bagatelle to the Lords.

It would, however, be very convenient for the Chancellor of the Exchequer. For the annual ransom thus levied upon the Peers would enable him to pay every member of the House of Commons an allowance of £300 a year. Thus at one stroke a little judicious pressure would be brought to bear upon the Peers, and a welcome and much needed source of relief afforded to the House of Commons. No proposition would be more enthusiastically welcomed by the masses of our people, and none could be more completely within the powers of the Lower House.

The resources of the Constitution and of the House of Commons are so far from being exhausted that we had hardly begun to examine them before we stumbled upon this short and simple method of bringing the Lords to reason. Other men may bring other counsels, but for the present I commend the above solution to those who mean business, and who really wish to Bell the Cat.

APPENDIX

NOTE OF PROPOSALS OF THE COUNCIL REJECTED BY THE HOUSE OF LORDS.

SESSION 1890.

London County Council (General Powers) Act, 1890.

The power sought by the Council in the Bill to institute inquiries with regard to markets was struck out in the House of Lords.

(*See* Council's Minutes, 1890, p. 906.)

SESSION 1892.

London County Council (Tramway) Bill (containing over-bridge lines).

Select Committee of the House of Lords rejected the Bill.

(*See* Council's Minutes, 1892, p. 605.)

SESSION 1893.

London Improvements Bill.

The House of Lords on the Second Reading of the Bill passed a resolution directed against the betterment clause in the Bill, and in Committee struck out the clause. When the Bill was returned to the House of Commons a motion was carried disagreeing with the House of Lords in the amendment as to the betterment clause. The Lords insisted on the omission of the betterment clause, and the Council did not proceed further with the Bill.

(*See* Council's Minutes, pp. 883 and 1081.)

London Open Spaces Act, 1893.

The House of Lords decided to strike out of the Bill the portion relating to Lincoln's Inn Fields.

(*See* Council's Minutes, 1893, p. 595.)

(N.B.—Lincoln's Inn Fields were acquired by the Council under the London County Council (Improvements) Act, 1894, section 45.)

London County Council (General Powers) Act, 1893.

The Select Committee of the House of Lords struck out three clauses in the Bill providing—

1. For the Council to be represented on the Thames Conservancy Board.
2. For further representation of the Council on the Lea Conservancy Board.
3. That the Council should be empowered to expend money in investigating matters of general interest to London.

The Commons disagreed with these omissions, and the negotiations which ensued between the two Houses resulted in an arrangement being arrived at, viz. :—

The Council to have three members on the Thames Conservancy Board.

No further representation on the Lea Conservancy Board.

Power to expend money not exceeding £1,000 a year in investigations.

(*See* Council's Minutes, 1893, pp. 665 and 916.)

SESSION 1894.

Tower Bridge Southern Approach Bill, 1894.

The Select Committee of the House of Lords inserted provisions so fettering the betterment clause that the Council decided not to proceed further with the Bill.

(*See* Council's Minutes, 1894, pp. 916 and 987.)

(N.B.—The Bill passed in 1895, when the Lords accepted the clause as passed by the Commons.)

SESSION 1898.

Allotments (London) Bill.

Rejected by the House of Lords on Second Reading.

(*See* Council's Minutes, 1898, p. 938.)

SESSION 1899.

London County Council (General Powers) Act, 1899.

Clause relating to acquisition of freehold of Spitalfields Market struck out by the Committee of the House of Lords.

(*See* Council's Minutes, 1899, p. 1220.)

Allotments (London) Bill.

Bill rejected on Second Reading in House of Lords.

(*See* Council's Minutes, 1899, p. 824.)

SESSION 1900.

London County Council (Spitalfields Market) Bill.

This Bill, to enable the Council to purchase and carry on Spitalfields Market, was passed by the House of Commons, but rejected by a Select Committee of the House of Lords.

(*See* Council's Minutes, 1900, p. 942.)

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SESSION 1901.

London County Council (Spitalfields Market) Bill.

The Bill was passed by the House of Commons, but the Select Committee of the House of Lords inserted a clause giving the Stepney Borough Council an option of purchasing or leasing the market to be declared within six months after the expiration of ten years from the passing of the Act.

The Council decided that in the interests of the county generally the Council would not be justified in taking over the market under a Bill containing such a clause. In consequence the Bill was dropped.

(*See* Council's Minutes, 1901, pp. 1158 and 1322.)

SESSION 1902.

London County Council (Tramways and Improvements) Act, 1902.

When this Bill came before the House of Lords for Second Reading an instruction to the Committee on the Bill was passed to omit from the Bill the tramway along the Embankment from Waterloo Bridge to a point near Westminster Bridge.

(*See* Council's Minutes, 1902, pp. 1010, 1299, and 1445.)

London County Council (Subways and Tramways) Act, 1902.

The House of Lords passed the Second Reading of this Bill, but with an instruction to the Committee that they should strike out the powers to construct the tramway in the subway south of the Strand.

(*See* Council's Minutes, 1902, pp. 1010, 1299, and 1445.)

London County Council (General Powers) Act, 1902.

The Select Committee of the House of Lords struck out the clauses in the Bill dealing with milk supply, which proposed to confer on the Council powers for the whole county similar to those already possessed by the Metropolitan Borough Councils so far as concerns the supply of milk in their several districts.

(*See* Council's Minutes, 1902, p. 1113.)

SESSION 1903.

Allotments Bill.

This Bill was rejected on Second Reading by the House of Lords.

(*See* Council's Minutes, 1903, p. 1163.)

SESSION 1905.

London County Council (Tramways and Improvements) Bill.

This Bill, which had been passed by the House of Commons, contained powers for the construction of tramways from Westminster to Blackfriars with a junction with the subway tramway at Waterloo Bridge and for certain extensions of time for

authorised tramways and other matters. A motion "that the Bill be read a second time this day three months" was moved by Lord Ridley and carried by 31 votes, and the whole Bill was lost.

(*See* Council's Minutes, 1905, vol. ii. pp. 937 and 938.)

London County Council (General Powers) Bill.

The powers for Borough Councils to wire and fit consumers' premises for electric lighting contained in this Bill were struck out by the House of Lords' Committee.

(*See* Council's Minutes, 1905, vol. ii. p. 939.)

London Squares and Enclosures (Preservation) Bill.

This Bill was rejected by the Committee of the House of Lords.

(*See* Council's Minutes, 1905, vol. i. pp. 2317 and 2318.)

SESSION 1906.

London County Council (General Powers) Act, 1906.

The Select Committee of the House of Lords struck out of the Bill the clauses by which the Council sought power to establish and maintain, or to contribute towards the cost of, or otherwise aid in establishing and maintaining an ambulance service for dealing with cases of accident or sudden illness in the streets or other public places in the county.

(*See* Council's Minutes, 1906, vol. ii. p. 282.)

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